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No. 39] NEW DELHI, SEPTEMBER 21—SEPTEMBER 27, 2003, SATURDAY/BHADRA 30—ASVINA 5, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 16 सितम्बर, 2003

सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/77/2003—डीएसपीई]

शुभा ठाकुर, अवर सचिव

CABINET SECRETARIAT

New Delhi, the 16th September, 2003

का०आ० 2689.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 155 पीसीआर 2003 दिनांक 7-8-2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री एस.एन. शंकर, वरिष्ठ प्रबंधक, इंडियन बैंक, सदाशिव नगर शाखा, बंगलौर के विरुद्ध भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 120-बी, 420, 467, 468 और 471 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) सपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के 2617 GI/2003

S.O. 2689.—In exercise of the powers conferred by Sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Karnataka, vide Notification No. HD 155 PCR 2003 dated 7-8-2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against Shri S.N. Shankar, Senior Manager, India Bank, Sadhashiva Nagar Branch, Bangalore under sections 120-B, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and section 13 (2)

read with 13 (1) (d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction, or arising out of the same facts.

[No. 228/77/2003-DSPE]

SHUBHA THAKUR, Under Secy.

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(पेंशन और पेंशनभोगी कल्याण विभाग)

नई दिल्ली, 16 सितम्बर, 2003

का०आ० 2690.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, साधारण भविष्य निधि (केन्द्रीय सेवा) नियम, 1960, का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :—

1. इन नियमों का संक्षिप्त नाम साधारण भविष्य निधि (केन्द्रीय सेवा) संशोधन नियम, 2003 है।

2. ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. साधारण भविष्य निधि (केन्द्रीय सेवा) नियम, 1960 की पांचवी अनुसूची के पैरा 2 में "मुख्य चिकित्सा अधिकारी और उप निदेशक केन्द्रीय सरकार स्वास्थ्य स्कीम, स्वास्थ्य और परिवार कल्याण मंत्रालय की क्षेत्रीय इकाइयों में समूह 'ग' और 'घ' कर्मचारिवृंद की बाबत" शब्दों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

"अपर निदेशक/संयुक्त निदेशक केन्द्रीय सरकार स्वास्थ्य स्कीम, स्वास्थ्य और परिवार कल्याण मंत्रालय की क्षेत्रीय इकाइयों में समूह 'क', 'ख', 'ग' और 'घ' कर्मचारिवृंद की बाबत"।

[सं. 20/4/2002-पी और पी डब्ल्यू (एफ)]

श्रीमती गंगामूर्ति, निदेशक (पी पी)

पाद टिप्पण : साधारण भविष्य निधि (केन्द्रीय सेवा) नियम 1960, का. आ. सं. 3000 तारीख 1-12-1960 द्वारा प्रकाशित किए गए थे। नियमों का चौथा पुनः मुद्रण (29-2-1988 तक संशोधित) द्विभाषी रूप में प्रकाशित कर दिया गया है। तत्पश्चात्, इन नियमों में नीचे उल्लिखित अधिसूचनाओं द्वारा संशोधन किए गए थे :—

1. का.आ.सं. 2002 तारीख 2-9-1989
2. का.आ.सं. 710 तारीख 4-3-1990
3. का.आ.सं. 3006 तारीख 17-11-1990
4. का.आ.सं. 3272 तारीख 8-12-1990
5. का.आ.सं. 146 तारीख 20-3-1993
6. का.आ.सं. 377 तारीख 10-2-1996
7. का.आ.सं. 379 तारीख 10-2-1996

8. का.आ.सं. 3228 तारीख 23-11-1996

9. का.आ.सं. 826 तारीख 25-4-1998

10. का.आ.सं. 2500 तारीख 5-12-1998

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners Welfare)

New Delhi, the 16th September, 2003

S.O. 2690.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the General Provident Fund (Central Services) amendment Rules, 1960, namely :—

1. (1) These Rules may be called the General Provident Fund (Central Services) Amendment Rules, 2003.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the General Provident Fund (Central Services) Rules, 1960, in the Fifth Schedule, in paragraph 2, for the words and letters, "Chief Medical Officers and Deputy Directors in the field units of Central Government Health Scheme, Ministry of Health and Family Welfare in respect of Group 'C' and 'D' staff", the following shall be substituted, namely :—

"Additional Director/Joint Director in the field units of Central Government Health Scheme, Ministry of health and Family Welfare, in respect of Group 'A', 'B', 'C' and 'D' staff."

[No. 20/4/2002-P & PW (F)]

Smt. GANGA MURTHY, Director (PP)

Foot Note : The General Provident Fund (Central Services) Rules, 1960, were published as S.O. No. 3000 dated 1-12-1960. The Fourth re-print of the Rules (corrected up to 29-2-1988) have since been published in diglot form. The Rules were subsequently amended vide Notifications mentioned below :—

1. S.O. No. 2002 dated 2-9-1989
2. S.O. No. 710 dated 4-3-1990
3. S.O. No. 3006 dated 17-11-1990
4. S.O. No. 3272 dated 8-12-1990
5. S.O. No. 146 dated 20-3-1993
6. S.O. No. 377 dated 10-2-1996
7. S.O. No. 379 dated 10-2-1996
8. S.O. No. 3228 dated 23-11-1996
9. S.O. No. 826 dated 25-4-1998
10. S.O. No. 2500 dated 5-12-1998

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 5 सितम्बर, 2003

(आयकर)

का.आ. 2691.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (iii) के प्रयोजनार्थ "संघ" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अधिसूचित संघ अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी,
- (ii) अधिसूचित संघ प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग, "टेक्नोलॉजी भवन", न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;
- (iii) अधिसूचित संघ केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवा तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	इंडियन इन्स्टिट्यूट आफ पब्लिक एडमिनिस्ट्रेशन, आई.पी. एस्टेट, रिंग रोड, नई दिल्ली।	1-4-2003 से 31-3-2006

टिप्पणी :—अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन

प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 214/2003/फ. सं. 203/35/2003-आयकर नि.-II]

उपमन्त्र्य बसु, उप सचिव (आयकर नि.-II)

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 5th September, 2003

(INCOME TAX)

S.O. 2691.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned against the name, for the purpose of clause (iii) of Sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category "Institution" subject to the following conditions:—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071 (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income Tax/ Director of Income Tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income Tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S.No.	Name of the organisation Approved.	Period for which Notifications is effective
1.	Indian Institute of Public Administration, IP Estate, Ring Road, New Delhi.	1-4-2003 to 31-3-2006
Notes: The notified Institution is advised to apply in triplicates and well in advance for renewal of the		

approval, to the Central Government through the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 214/2003/F. No. 203/35/2003/ITA-II]

UPMANYU BASU, Dy. Secy.

नई दिल्ली, 12 सितम्बर, 2003

का.आ. 2692.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड. के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003, 2003-2004 और 2004-2005 के लिए नीचे पैरा (3) में उल्लिखित उद्यम/औद्योगिक उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

- (i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड. के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23छ) के उपबन्धों के अनुरूप होगा और उनका अनुपालन करेगा,
- (ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम :—
- (क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है, और
- (ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड. के उपनियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है, अथवा
- (ग) आयकर नियमावली, 1962 के नियम 2ड. के उपनियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/औद्योगिक उपक्रम है :—

मैसर्स आईडिया सैल्यूलर लि. (पूर्व-नामित बिरला ए.टी. एण्ड टी कम्युनिकेशन लि.) सुमेर टावर, प्लॉट सं. 18, सेक्टर सं. 11, गांधी नगर-382011 को लाइसेंस करार सं. 842/52/95-वी ए एस/ए दिनांक 15.12.1999 और गुजरात सर्कल लाइसेंस सं. 842/58/95-ए एस-58 ए दिनांक 12.12.1995 के संबंध में भी महाराष्ट्र में मोबाइल टेलीफोन सर्विस की उनकी परियोजना के लिए।
[फा. सं. 205/74/98-आयकर नि. II, (खंड -1)]

[अधिसूचना सं. 219/2003/फा. सं. 205/74/98-आयकर नि.—II, खण्ड-I]

उपमन्यु बसु, उप सचिव (आयकर नि.—II)

New Delhi, the 12th September, 2003

S.O. 2692.—It is notified for general information that enterprise/industrial undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961 read with rule 2E of the Income-tax Rules, 1962 for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2. The approval is subject to the condition that—

- (i) the enterprise/industrial undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961 read with Rule 2E of the Income-tax Rules, 1962;
- (ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking:—
- (a) ceases to carry on infrastructure facility; or
- (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or
- (c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962;

3. The enterprise/industrial undertaking approved is—

M/s. Idea Cellular Ltd. (formerly Birla AT&T Communication Ltd.), Sumar Tower, Plot No. 18, Sector No. 11, Gandhinagar-382011 for their project of Cellular Mobile Telephone Service in the Maharashtra Circle as per Licence Agreement No. 842/57/95-VAS/A dated 15.12.1999 and also in respect of Gujarat Circle vide Licence No. 842-58/95-AS-58A dated 12-12-1995 [F.No. 205/74/98-ITA-II (Vol. I)].

[Notification No. 219/2003/F. No. 205/74/98/ITA-II-Vol. I]

UPMANYU BASU, Dy. Secy. (ITA-II)

नई दिल्ली, 12 सितम्बर, 2003

का.आ. 2693.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड. के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003, 2003-2004 और 2004-2005 के लिए नीचे पैरा (3) में उल्लिखित उद्यम/औद्योगिक उपक्रम को अनुमोदित करती है :—

2. यह अनुमोदन इस शर्त के अधीन है कि :—

- (i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड. के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23-छ) के उपबन्धों के अनुरूप होगा और उनका अनुपालन करेगा,

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम:-

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है, और

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड. के उपनियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है, अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड. के उपनियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/औद्योगिक उपक्रम है:-

मैसर्स जय प्रकाश हाइड्रो पावर लिमिटेड, जे ए एनेक्सी, 54 बसन्त लोक, वसन्त विहार, नई दिल्ली-110057 को हिमाचल प्रदेश के किन्नौर जिले में 300 मेगावाट की जल विद्युत बसपा II की विद्युत उत्पादन की उनकी परियोजना के लिए।

[अधिसूचना सं० 217/2003/फा. सं. 205/77/99/आयकर नि. II/खण्ड-I]

उपमन्यु बसु, उप सचिव (आयकर नि.-II)

New Delhi, the 12th September, 2003

S.O. 2693. — It is notified for general information that enterprise/industrial undertaking, listed at para (3) below has been approved by the Central Government for the purpose of section 10(23G) of the Income-tax Act, 1961 read with rule 2E of the Income-tax Rules, 1962 for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2. The approval is subject to the condition that—

(i) the enterprise/industrial undertaking will conform to and comply with the provisions of section 10(23G) of the Income-tax Act, 1961 read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking:-

(a) ceases to carry on infrastructure facility; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962;

3. The enterprise/industrial undertaking approved is—

M/s. Jaiprakash Hydro Power Limited, JA Annexe, 54 Basant Lok, Vasant Vihar, New Delhi-110057 for their project of power generation of 300MW

Hydro Electric Baspa II in Kinnaur Distt. of Himachal Pradesh.

[Notification No. 217/2003 F. No. 205/77/99/ITA-II/Vol. I.]

UPAMANYU BASU, Dy. Secy.

नई दिल्ली, 12 सितम्बर, 2003

(आयकर)

का०आ० 2694.— सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 'संघ' श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :-

(i) अधिसूचित संघ अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी,

(ii) अधिसूचित संघ प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग "टेक्नोलॉजी भवन" न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संघ केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवा तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स नेशनल हन्स्टीड्यूट ऑफ राक मैकेनिक्स चैम्पियन रीफ्स पोस्ट, कोलार गोल्डफील्ड्स, कर्नाटक-563117	1-4-2002 से 31-3-2005

टिप्पणी:— अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन

प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं० 218/2003 /फा० सं० 203/61/2002-आयकर नि.-II]

उपमन्यु बसु, उप सचिव (आयकर नि.-II)

New Delhi, the 12th September, 2003

INCOME-TAX

S.O. 2694.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned against the name, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Association" subject to the following conditions:—

- (i) The notified Association shall maintain separate books of accounts for its research activities;
- (ii) The notified Association shall furnish the Annual Return of its scientific research to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Association shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071 (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income-tax/Director of Income tax (Exemptions), having jurisdiction over the organisation, or before the 31st October each year, a copy of its audited Annual Account and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of income-tax to the designated assessing officer.

S.No.	Name of the organisation Approved.	Period for which Notification is effective
1.	M/s. National Institute of Rock Mechanics Champion Reefs Post, Kolar Gold Field Karnataka-563117	1-4-2002 to 31-3-2005

Notes: The notified Association is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall

also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification 218/2003/F. No. 203/61/2002/ITA-II]

UPMANU BASU, Dy. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 16 सितम्बर, 2003

का.आ. 2695.— बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2005 तक जिला सहकारी बैंक लि. ललितपुर, उत्तर प्रदेश पर लागू नहीं होंगे।

[फा. सं. 1(27)/2003-एसी]

मंगल मराण्डी, अवर सचिव

Department of Economic Affairs

(BANKING DIVISION)

New Delhi, the 16th September, 2003

S.O. 2695.— In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to Zila Sahakari Bank Ltd., Lalitpur, Uttar Pradesh, from the date of publication of this notification in the Official Gazette till 31st March 2005.

[F. No. 1(27)/2003-AC]

MANGAL MARNDI, Under Secy.

(क्षेत्रीय ग्रामीण बैंक अनुभाग)

नई दिल्ली, 18 सितम्बर, 2003

का.आ. 2696.— क्षेत्रीय ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) की अधिसूचना सं. का. आ. 213 (अ) जिसे भारत के राजपत्र (असाधारण) भाग-II, खंड 3, उपखंड (ii) में 25 मार्च, 1983 को प्रकाशित किया गया था, में निम्नलिखित संशोधन करती है।

उक्त अधिसूचना में, "गुंटूर जिले में तेनाली एक ऐसी जगह है जहां चैतन्य ग्रामीण बैंक का अपना मुख्य कार्यालय होगा" के स्थान पर "गुंटूर एक ऐसी जगह है जहां चैतन्य ग्रामीण बैंक का अपना मुख्य कार्यालय होगा" शब्द प्रतिस्थापित किए जाएंगे।

[एफ. सं. 7(6)/2003-आरआरबी]

जी. बी. सिंह, अवर सचिव

नोट : मुख्य नियम 25 मार्च, 1983 की अधिसूचना सं. का. आ. 213 (अ) के अंतर्गत प्रकाशित किए गए थे।

(REGIONAL RURAL BANKS SECTION)

New Delhi, the 18th September, 2003

S.O. 2696.—In exercise of the powers conferred by sub-section (1) of Section 4 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance, Department of Economic Affairs (Banking Division), number S.O. 213 (E) dated the 25th March, 1983 published in Gazette of India, Extraordinary, Part II Section 3, Sub-section (ii).

In the said notification, for the words "Tenali in Guntur District as the place where Chaitanya Grameena Bank shall have its head office" the words "Guntur as the place where Chaitanya Grameena Bank shall have its head office" shall be substituted.

[F.No. 7(6)/2003-RRB]

G. B. SINGH, Under Secy.

Note :—The principal Rules were published vide notification number S.O. 213(E) dated the 25th March, 1983.

विदेश मंत्रालय

(सी. पी. वी. प्रभाग)

नई दिल्ली, 10 सितम्बर, 2003

का.आ. 2697.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत के प्रधान कौंसलावास मिलान में श्रीमति अरुणा टिर्की को 10-09-2003 से सहायक कौंसली अधिकारी का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2003]

उपेन्द्र सिंह रावत, अवर सचिव (कौन्सुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. DIVISION)

New Delhi, the 10th September, 2003

S.O. 2697.—In pursuance of the clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Smt. Aruna Tirkey, Assistant in the Consulate General of India, Milan to perform the duties of Assistant Consular Officer with effect from 10-09-2003.

[No. T. 4330/01/2003]

U.S. RAWAT, Under Secy. (Cons.)

नागर विमानन मंत्रालय

नई दिल्ली, 18 सितम्बर, 2003

का.आ. 2698.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग), नियम 1976 के नियम 10 के उप नियम (4) के अनुसरण में, नागर विमानन मंत्रालय के अधीनवर्ती कार्यालय एअर इंडिया लिमिटेड के निम्नलिखित चार स्टेशनों को जिनके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

1. जिला बिक्री प्रबंधक, एअर इंडिया, जी एफ विजया टावर, सिविल लाइन्स, जालंधर-144001
2. जिला बिक्री प्रबंधक, एअर इंडिया, 2, गणपति प्लाजा, एम आई रोड, जयपुर-302001
3. जिला बिक्री प्रबंधक, एअर इंडिया, जी एफ-2 चिन्टेस हाउस, 16, स्टेशन रोड, लखनऊ-226001
4. जिला बिक्री प्रबंधक, एअर इंडिया, एससीओ 93-94, सेक्टर 17बी, चंडीगढ़

[सं. ई-11011/01/2000-राभा.]

चन्द्रभान नारनौली, निदेशक (राजभाषा)

MINISTRY OF CIVIL AVIATION

New Delhi, 18th September, 2003

S.O. 2698.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the official purposes of the Union) Rules, 1976, the Central Government, hereby notifies the following four stations of Air India Ltd. the public sector undertaking of Ministry of Civil Aviation, whereof, more than 80% staff have acquired the working knowledge of Hindi :—

1. District Sales Manager, Air India, GF Vijaya Towers, Civil Lines, Jalandhar-144001.
2. District Sales Manager, Air India, 2, Ganpati Plaza, M.I. Road, Jaipur-302001.
3. District Sales Manager, Air India, GF-2, Chintez House, 16, Station Road, Lucknow-226001.
4. District Sales Manager, Air India, SCO 93-94, Sector 17-B, Chandigarh.

[No. E-11011/01/2000-OL]

C.B. NARNAULI, Director (OL)

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 9 सितम्बर, 2003

का.आ. 2699.—केन्द्र सरकार ने भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खण्ड (क) के अनुसरण में और मणिपुर सरकार से परामर्श करके प्रो. एन. विजय सिंह, कुलपति, मणिपुर विश्वविद्यालय को इस अधिसूचना

के जारी होने की तारीख से भारतीय आयुर्विज्ञान परिषद् के एक सदस्य के रूप में मनोनीत किया है।

अतः अब, उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबंध के अनुसरण में केन्द्र सरकार एतद्वारा भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का.आ. 138 में निम्नलिखित और संशोधन करती है, अर्थात्:

उक्त अधिसूचना में "धारा 3 की उप-धारा (1) के खण्ड (क) के अधीन मनोनीत" शीर्षक के अंतर्गत क्रम संख्या 20 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी; अर्थात्:—

"20. प्रो. एन. विजय सिंह, मणिपुर सरकार"

ल्लिरेन मैन्सन
सुपर मार्केट के सामने,
लैम्फेलपाट-795004
इम्फाल

[सं. वी-110013/1/2003-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 9th September, 2003

S.O. 2699— Whereas the Central Government, in pursuance of clause (a) of sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Manipur have nominated Prof. N. Bijoy Singh, Vice Chancellor, Manipur University to be a member of the Medical Council of India with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the then Ministry of Health number S.O. 138, dated the 9th January, 1960, namely:

In the said notification, under the heading, 'Nominated under clause (a) of sub-section (1) of Section 3', for serial number 20 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

"20. Prof. N. Bijoy Singh, Government of Manipur"
Leiren Mansion,
Opposite Super Market,
Lamphelpat-795004, Imphal.

[No. V-11013/1/2003-ME (Policy-I)]

P.G. KALADHARAN, Under Secy.

नई दिल्ली, 16 सितम्बर, 2003

का.आ. 2700.— दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग

करते हुए केन्द्र सरकार भारतीय दन्त चिकित्सा परिषद् से परामर्श करने के बाद एतद्वारा उक्त अधिनियम की अनुसूची के भाग-I में संशोधन करती है; अर्थात्:

उक्त अनुसूची के भाग-I में क्रम संख्या 51 और उससे संबंधित प्रविष्टियों के सामने निम्नलिखित प्रविष्टियां जोड़ी जाएंगी, नामतः—

51. बाबा फरीद दंतशल्य चिकित्सा स्नातक यूनिवर्सिटी ऑफ बाबा जसवंत सिंह दंत कालेज, हैलथ साइंसेज, फरीदकोट	दंत शल्य चिकित्सा स्नातक बाबा फरीद यूनिवर्सिटी ऑफ हैलथ साइंसेज, फरीदकोट
अस्पताल एवं रिसर्च संस्थान, लुधियाना के बी.डी.एस. छात्रों के संबंध में उक्त दंत चिकित्सा अर्हता तभी एक मान्यता प्राप्त अर्हता होगी यदि यह 18 दिसम्बर, 2002 को या उसके बाद प्रदान की गई हो।	

[सं. वी-12018/26/2002-पीएमएस]

एस.के.राव, निदेशक (चि.शि.)

New Delhi, the 16th September, 2003

S.O. 2700.— In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely:—

2. In Part - I of the Schedule against Serial Number 51, and the entries relating thereto, the following entries shall be added, namely:—

51. Baba Farid University of Health Sciences, Faridkot	Bachelor of Dental Surgery The dental qualification shall be recognized qualification in respect of BDS students of Baba Jaswant Singh Dental College, Hospital & Research Institute, Ludhiana when granted on or after 18-12-2002.	BDS Baba Farid University of Health Sciences.
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[No. V-12018/26/2002-PMS]

S.K. RAO, Director

पोत परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 10 सितम्बर, 2003

का.आ. 2701— केन्द्र सरकार, राष्ट्रीय नौवहन बोर्ड नियम, 1960 के नियम 3 और 4 (1) के साथ पठित वाणिज्य पोत परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दो वर्ष की अवधि के लिए तत्काल प्रभाव से राष्ट्रीय नौवहन बोर्ड स्थापित करती है, जिसमें निम्नलिखित सदस्य होंगे तथा श्री वी.के. खन्ना को उक्त बोर्ड का अध्यक्ष नामित करती है, अर्थात्

1. श्री वी. के. खन्ना - अध्यक्ष
2. से 5. लोक सभा सदस्य - लोक सभा सचिवालय द्वारा नामित किए जाएंगे
6. से 7. राज्य सभा सदस्य - राज्य सभा सचिवालय द्वारा नामित किए जाएंगे
8. संयुक्त सचिव (नौवहन), - केन्द्र सरकार के प्रतिनिधि
पोत परिवहन, मंत्रालय,
नई दिल्ली
9. अपर सचिव एवं वित्त - -वही-
सलाहकार, भारत सरकार,
वित्त मंत्रालय के प्रतिनिधि
10. श्री डी. के. मिश्र - -वही-
संयुक्त सचिव, वाणिज्य
मंत्रालय, नई दिल्ली
11. वाइस एडमिरल एस. वी. - वही-
गोपालाचारी, एवीएसएम,
वीएसएम डिप्टी चीफ ऑफ
नेवल स्टाफ, भारतीय नौसेना,
नई दिल्ली
12. नौवहन महानिदेशक, - -वही-
मुम्बई
13. श्री पी.के. श्रीवास्तव - नेशनल शिपआनर्स
अध्यक्ष, इन्सा एसोसिएशन, मुम्बई
14. श्री आर.एल.पाई - -वही-
उपाध्यक्ष, इन्सा
15. श्री एस. जे. मुल्जी, - -वही-
इमीडिएट पास्ट प्रेसीडेंट,
इन्सा
16. डा. एम.के. पांधे - फारवर्ड सीमैन्यूनियन
आफ इंडिया, कोलकाता
17. डा. शांति पटेल - नेशनल यूनियन आफ
इंडियन सीफैरर्स आफ इंडिया,
मुम्बई
18. श्री एस. एस. खान - मैरीटाईम यूनियन आफ
महासचिव इंडिया, मुम्बई
19. श्री पी. वी.के. मोहन - एक प्रख्यात जहाजरानी
विशेषज्ञ
20. श्री विपिन मलिक - एक प्रख्यात चार्टर्ड एकाउंटेंट
21. श्री सज्जन जिंदल - एक प्रख्यात व्यवसायी
22. श्री जे.एल. अरमानी - आई.ए.एस. (सेवानिवृत्त)

[फ्र. सं. एस.एस-18011/1/2003-एस एल]

ओ.पी. भटेजा, लेखा अधिकारी (एसएल)

MINISTRY OF SHIPPING

(SHIPPING WING)

New Delhi, dated the 10th September, 2003.

S.O. 2701. In exercise of the powers conferred by
Section 4 of the Merchant Shipping Act, 1958 (44 of 1958)

read with Rule 3 and 4 (1) of the National Shipping Board Rules, 1960, the Central Government hereby establishes a National Shipping Board, for a period of two years with immediate effect consisting of the following Members and nominates Shri V.K. Khanna to be the Chairman of the said Board, namely :-

1. Shri V. K. Khanna CHAIRMAN
2. to 5. MPs from Lok Sabha to be nominated by Lok Sabha Sectt.
6. to 7. MPs from Rajya Sabha to be nominated by Rajya Sabha Sectt.
8. Joint Secretary (Shipping) Govt. of India Representative of Central Government
Ministry of Shipping,
New Delhi to represent
Secretary (Shipping)
9. Additional Secretary & Financial Adviser to the -do-
Government of India
Ministry of Shipping,
New Delhi
to represent
Ministry of Finance.
10. Shri D.K. Mittal, -do-
Joint Secretary,
Ministry of Commerce
New Delhi
11. Vice Admiral S. V. Gopalachari, -do-
AVSM, VSM, Deputy Chief
of Naval Staff,
New Delhi.
12. Director General of Shipping, Mumbai Representative of Central Government
13. Shri P. K. Srivastava. Indian National Shipowner's Association, Mumbai.
President, INSA
14. Shri R. L. Pai -do-
Vice President, INSA
15. Shri S. J. Mulji, -do-
Immediate past President,
INSA.
16. Dr. M. K. Pandhe Forward Seamen's Union of India, Kolkata
17. Dr. Shanti Patel National Union of Seafarers of India, Mumbai.
18. Shri S. S. Khan The Maritime Union of India, Mumbai.
19. Shri P. V. K. Mohan An eminent Shipping expert
20. Shri Vipin Mallick An eminent Chartered Accountant
21. Shri Sajjan Jindal An eminent Industrialist
22. Shri J. L. Ajmani IAS (Retd.)

[F.No.SS-18011/1/2003-SL]

O. P. BHATEJA, Accounts Officer (SL)

कृषि मंत्रालय

(कृषि एवं सहकारिता विभाग)

नई दिल्ली, 12 सितम्बर, 2003

का०आ० 2702.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में कृषि एवं सहकारिता विभाग, कृषि मंत्रालय के प्रशासनिक नियंत्रणाधीन वनस्पति संरक्षण, संगरोध एवं संग्रह निदेशालय, फरीदाबाद के निम्नलिखित कार्यालय को जिसके 80% कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

राष्ट्रीय वनस्पति संगरोध केन्द्र,
रंगपुरी,
नई दिल्ली-110037

[सं. 3-2/2002-हिन्दी नीति]

सतीश चन्द्र, संयुक्त सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 12th September, 2003

S.O. 2702.—In pursuance of sub-rule (4) of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following Office of the Directorate of Plant Protection, Quarantine & Storage, Faridabad under the Administrative control of the Department of Agriculture and Cooperation, Ministry of Agriculture, 80% staff whereof have acquired the working knowledge of Hindi :—

National Plant Quarantine Centre,
Rangpuri,
New Delhi-110037

[No. 3-2/2002-Hindi Neeti]

SATISH CHANDER, Jt. Secy.

(विपणन एवं निरीक्षण निदेशालय)

फरीदाबाद/नई दिल्ली, 17 सितम्बर, 2003

का.आ. 2703.—साधारण श्रेणीकरण तथा चिन्हांकन नियमावली, 1988 के अधीन मुझको प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस विषय पर दिनांक 8 मई, 1991 की पूर्व अधिसूचना का.आ. 1442 में आंशिक संशोधन करते हुए, मैं, पी०के० अग्रवाल, कृषि विपणन सलाहकार, भारत सरकार एतद्वारा स्तम्भ (1) में उल्लिखित नियमों के अनुसरण में जैसा कि स्तम्भ (2) में शक्तियों के प्रयोग के अधिकार विनिर्दिष्ट हैं, स्तम्भ (3) में विनिर्दिष्ट राज्य सरकार के अधिकारियों को उत्तर-प्रदेश राज्य में घरेलू मंडी के लिए कृषि उपज (श्रेणीकरण तथा चिन्हांकन) अधिनियम, 1937 (1937 का 1) के अधीन निर्धारित श्रेणीकरण तथा चिन्हांकन नियमों तथा श्रेणी अभिधानों के अनुसार कृषि तथा अन्य उत्पादों के श्रेणीकरण तथा चिन्हांकन करने हेतु प्राधिकार प्रत्यायोजित करता हूँ।

साधारण प्रत्यायुक्त शक्तियां राज्य के अधिकारी
श्रेणीकरण चिन्हांकन का पदनाम
नियमावली,
1988 के
नियम का
संदर्भ

1	2	3
नियम 3(4)	घरेलू श्रेणीकरण के लिए प्राधिकरण प्रमाणपत्र प्रदान करने हेतु आवेदन प्राप्त करना।	निदेशक, कृषि विपणन, लखनऊ, उ०प्र०
नियम 3(5)	आवेदक की सदाशयता का सत्यापन तथा परिसरों, प्रयोगशालाओं, संसाधन एककों के निरीक्षण की व्यवस्था करना तथा घरेलू श्रेणीकरण के लिए प्राधिकरण प्रमाणपत्र प्रदान करने हेतु सिफारिश करना।	सहायक कृषि विपणन अधिकारियों को उनके अपने-अपने क्षेत्राधिकार में।
नियम 4	विकेन्द्रीकृत श्रेणीकरण के बारे में प्राधिकरण प्रमाणपत्र का नवीनीकरण करना।	निदेशक, कृषि विपणन लखनऊ, उत्तर-प्रदेश।
नियम 8(2)	एगमार्क श्रेणीकरण के लिए निजी वाणिज्यिक प्रयोग-शाला के अनुमोदन की सिफारिश करना।	-वही-
नियम 12	विकेन्द्रीकृत श्रेणीकरण के बारे में श्रेणी अभिधान चिन्हों को जारी करने अथवा प्रयोग करने पर रोक लगाना।	-वही-
नियम 14	किसी भी अनुचित वस्तु के बारे में सूचना, रिपोर्ट, विवरणी प्राप्त करना।	-वही-
नियम 3(8)(ख)	प्राधिकृत श्रेणीकरण परिसरों का निरीक्षण करना तथा यह अभिनिश्चित करना कि विकेन्द्रीकृत वस्तुओं का श्रेणीकरण तथा चिन्हांकन सही रूप में किया जाता है।	सहायक कृषि विपणन अधिकारियों को उनके अपने-अपने क्षेत्राधिकार में।
नियम 3(8)(ग)	विकेन्द्रीकृत श्रेणीकरण के प्राधिकृत पैकरों द्वारा रखे रिकार्ड की जांच करना।	-वही-
नियम 3(8)(घ)	श्रेणी अभिधान चिन्ह लगे हुए किसी पैकेज को खोलना तथा निरीक्षण करना तथा किसी भी श्रेणीकृत उपज के नमूने लेना,	-वही-

1	2	3
	परन्तु सभी नमूनों के लिए संदाय किया जाएगा।	
नियम 3 (8)(ड)	विकेन्द्रीकृत श्रेणीकरण के अधीन आने वाली किसी भी श्रेणीकृत वस्तु का श्रेणी अभिधान चिन्ह रद्द करना या उसे हटाना यदि यह विहित श्रेणी विनिर्देशनों के अनुरूप नहीं है।	-वही-

[फा. सं. क्यू-11011/9/93-मानक]

पी० के० अग्रवाल, कृषि विपणन सलाहकार

(Directorate of Marketing and Inspection)

Faridabad/New Delhi, the 17th September, 2003

S.O. 2703.—In exercise of the powers conferred on me under the General Grading and Marking Rules, 1988 and in partial modification of the earlier notification S.O. 1442 dated 8th May, 1991 on the subject, I, P.K. Agarwal, Agricultural Marketing Adviser to the Government of India hereby delegate, in pursuance of the rules cited in column (1), authority to exercise the powers, as specified in column (2), to the officers of the State Government, specified in column (3), in respect of grading and marking of agricultural and other produce in accordance with the grade designations and the Grading and Marking Rules prescribed under the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) for domestic market in the State of Uttar Pradesh.

Reference rule of GGM Rules 1988	Powers delegated	Designation of the State Officer
1	2	3
Rule 3(4)	To receive the application for grant of Certificate of Authorisation for domestic grading;	Director, Agricultural Marketing, Lucknow, U.P.
Rule 3(5)	To arrange for verification of bonafides of the applicant and inspection of the premiss Laboratory, processing units and to recommend grant of C.A. for domestic grading;	Assistant Agriculture Marketing Officers in their respective jurisdiction.

1	2	3
Rule 4	To renew the certificate of Authorisation in respect of de-centralised grading;	Director, Agricultural Marketing, Lucknow, U.P.
Rule 8 (2)	To recommend approval of private commercial laboratory for Agmark grading;	-do-
Rule 12	To withhold issue or use of grade designation marks in respect of de-centralised grading;	-do-
Rule 14	To obtain information, report, return in respect of any of the Scheduled articles;	-do-
Rule 3(8)B	To inspect the authorized grading premises and to ascertain that grading and marking of de-centralized commodities is correctly performed;	Asstt. Agricultural Marketing Officers in their respective Jurisdiction
Rule 3(8)(c)	To examine the record maintained by the authorized packers of de-centralized grading;	-do-
Rule 3(8)(d)	To open and inspect any package bearing grade designation mark and to take samples of any graded produce provided all samples shall be paid for;	-do-
Rule 3(8)(e)	To cancel or to remove the grade de-signation mark from any graded article covered under decentralized grading if found not conforming to the prescribed grade specifications.	-do-

[F. No. Q-11011/9/93-Std.]

P. K. AGARWAL, Agricultural Marketing Adviser

नई दिल्ली, 18 सितम्बर, 2003

का०आ० 2704.—सामान्य श्रेणीकरण एवं चिह्नांकन नियमावली, 1988 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं,

पी०के० अग्रवाल, कृषि विपणन सलाहकार, भारत सरकार, विपणन एवं निरीक्षण निदेशालय, उप कार्यालय, कोच्ची और गुन्टूर, के प्रभारी अधिकारियों को उनके अधिकार क्षेत्र में कृषि उत्पाद (श्रेणीकरण एवं चिन्हांकन) अधिनियम, 1937 (1986 तक यथा संशोधित 1937 का 1) के उपबंधों के तहत बने नियमों के अनुसार कृषि एवं इसके संबंधी उत्पादों के मामले में उल्लिखित विधि से निम्नलिखित अधिकारों का प्रयोग करने के लिए एतद्द्वारा प्राधिकृत करता हूँ।

- (i) नियम, 3 अधिनियम, के तहत बने नियमों के उपबंधों के अनुसार किसी वस्तु के श्रेणीकरण एवं चिन्हांकन करने के लिए प्राधिकार प्रमाण-पत्र प्रदान करना;
- (ii) नियम, 4 निर्यात श्रेणीकरण एवं केन्द्रीयकृत श्रेणीकरण से संबंधित प्राधिकार प्रमाणपत्र का नवीकरण करना;
- (iii) नियम, 5 प्राधिकृत पैकर के नाम, स्टाइल या पते में तथा प्राधिकार प्रमाण-पत्र में प्राधिकृत भवन में हुए परिवर्तनों को अभिलेखबद्ध करना;
- (iv) नियम, 8 अधिनियम के उपबंधों के तहत किसी वस्तु का श्रेणीकरण एवं चिन्हांकन करने के लिए पैकर द्वारा स्थापित की गई प्रयोगशाला को अनुमोदित करना;
- (v) नियम, 9 श्रेणीकरण प्रयोगशाला चलाने हेतु पैकर द्वारा नियुक्त किए गए रसायनज्ञ की स्वीकृति देना;
- (vi) नियम, (10)3 प्राधिकृत पैकरों को एगमार्क लेबल के स्थान पर "एगमार्क प्रतिकृति" प्रयोग करने की अनुमति प्रदान करना;
- (vii) नियम, 14 किसी भी अनुसूचित वस्तु के बारे में प्राधिकृत पैकरों से सूचना, रिपोर्ट या विवरण मंगाना।
- (viii) नियम, 15(1) अधिनियम के उपबंधों के तहत श्रेणीकृत एवं चिन्हांकित किसी अनुसूचित वस्तु के निर्यात परेषण के लिए विहित प्रपत्र में एगमार्क श्रेणीकरण का प्रमाण-पत्र जारी करना;
- (ix) नियम, 15(2) उस निर्यातक के लिए जो एक प्राधिकृत पैकर नहीं है, एगमार्क श्रेणीकरण प्रमाण-पत्र पृष्ठांकन करना।

क्षेत्रीय प्रमुख चेन्नई और हैदराबाद इसके साथ-साथ अपने-अपने क्षेत्र में प्रदत्त शक्तियों के प्रयोग को जारी रखेंगे।

[सं. क्यू-11011/10/2001-मानक]
पी.के. अग्रवाल, कृषि विपणन सलाहकार

New Delhi the 18th September, 2003

S.O. 2704.—I, P.K. Agarwal, Agricultural Marketing Adviser to the Government of India, in exercise of the powers conferred on me under the General Grading and Marking Rules, 1988, hereby authorise incharge of the Sub-office, Kochi and Guntur, of the Directorate of Marketing and Inspection to exercise the following powers in his jurisdiction, in regard to grading and marking of agricultural and other produce in accordance with the rules made under the provisions of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) as amended upto 1986.

- (i) Rule 3 To grant the Certificate of Authorisation for grading and marking of an article in accordance with the provisions of the Rules made under the Act;
- (ii) Rule 4 To renew the Certificate of Authorisation in respect of export grading and centralized grading;
- (iii) Rule 5 To record changes in the name, style or address of the authorised packer and change of authorised premises in the Certificate of Authorisation;
- (iv) Rule 8 To approve the Laboratory set up by the packer, for grading and marking of an article under provisions of the Act;
- (v) Rule 9 To approve the chemist appointed by the packer for manning the grading laboratory;
- (vi) Rule 10(3) To grant permission for use of "Agmark replica" in lieu of Agmark labels to the authorised packers;
- (vii) Rule 14 To call for information, report or return in respect of any of the scheduled articles from the authorised packers;
- (viii) Rule. 15(i) To issue certificate of Armark grading in prescribed form, for export consignment of a scheduled article graded and marked under the provision of the Act;
- (ix) Rule. 15(2) To endorse Certificate of Agmark Grading in favour of the exporter who is not an authorised packer.

The Regional Head, Chennai and Hyderabad shall continue to exercise the powers delegated to them in their regions concurrently.

[No. Q-11011/10/2001-Std.]

P. K. AGARWAL, Agricultural Marketing
Adviser

युवा कार्यक्रम और खेल मंत्रालय

नई दिल्ली, 10 सितम्बर, 2003

का०आ० 2705.—केन्द्रीय सरकार एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10(4) के अनुसरण में राष्ट्रीय सेवा योजना प्रादेशिक केन्द्र, जयपुर को, जिनके कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[मि. सं. ई-11011/7/2003-हि.ए.]

आर.एन. शर्मा, उप सचिव

MINISTRY OF YOUTH AFFAIRS AND SPORTS

New Delhi, the 10th September, 2003

S.O. 2705.—In pursuance of rule 10(4) of the Official Language (Use for Official purposes of the Union) Rule, 1976 the Central Government hereby notifies the National Service Scheme Regional Centre, Jaipur the Staff whereof have acquired working knowledge of Hindi.

[F. No. E-11011/7/2003-H.U.]

R. N. SHARMA, Dy. Secy.

शहरी विकास और गरीबी उपशमन मंत्रालय

नई दिल्ली, 29 अगस्त, 2003

का०आ० 2706.—भारत सरकार एतद्वारा शहरी विकास और गरीबी उपशमन मंत्रालय के प्रशासनिक नियंत्रण में हडको के निम्नलिखित कार्यालयों को, जहाँ 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अंतर्गत अधिसूचित करती है :—

1. हडको क्षेत्रीय कार्यालय, तिरुवनन्तपुरम
2. हडको क्षेत्रीय कार्यालय, जम्मू
3. हडको क्षेत्रीय कार्यालय रायपुर

[सं. ई-11014/4/2000-हिन्दी]

एम. राजामणि, संयुक्त सचिव

MINISTRY OF URBAN DEVELOPMENT AND POVERTY ALLEVIATION

New Delhi, the 29th August, 2003

S.O. 2706.—The Government of India in pursuance of sub rule (4) of Rule 10 of the Official language (Use for the Official purposes of the Union) Rules, 1976 hereby notifies the following offices of HUDCO under the administrative control of the Ministry of Urban Development and Poverty Alleviation, where more than 80% of staff have acquired working knowledge in Hindi :—

1. HUDCO Regional Office, Thiruvananthapuram.
2. HUDCO Regional Office, Jammu.
3. HUDCO Regional Office, Raipur.

[No. E-11014/4/2000-Hindi]

M. RAJAMANI, Jt. Secy.

नई दिल्ली, 29 अगस्त, 2003

का०आ० 2707.—भारत सरकार एतद्वारा शहरी विकास और गरीबी उपशमन मंत्रालय के प्रशासनिक नियंत्रण में संपदा निदेशालय के निम्नलिखित कार्यालय को, जहाँ 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अंतर्गत अधिसूचित करती है :—

1. सहायक संपदा प्रबंधक कार्यालय, चंडीगढ़

[सं. ई-11014/4/2000-हिन्दी]

एम. राजामणि, संयुक्त सचिव

New Delhi, the 29th August, 2003

S.O. 2707.—The Government of India in pursuance of sub rule (4) of Rule 10 of the Official Language (Use for the Official purposes of the Union) Rules, 1976 hereby notifies the following office of Dte. of Estates under the administrative control of the Ministry of Urban Development and Poverty Alleviation, where more than 80% of staff have acquired working knowledge in Hindi :—

1. Office of Asstt. Estate Manager, Chandigarh.

[No. E-11014/4/2000-Hindi]

M. RAJAMANI, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

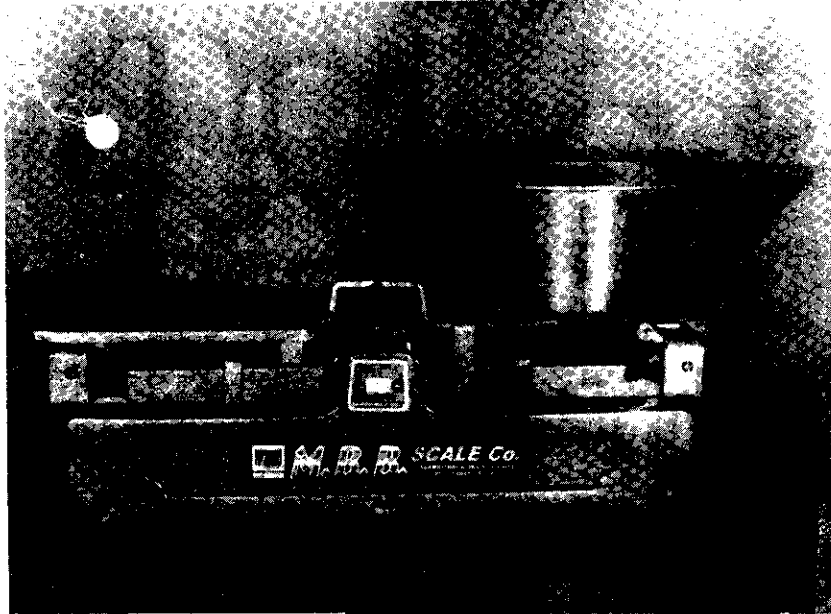
(उपभोक्ता मामले विभाग)

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2708.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मकावाना भोलाभाई बच्चूभाई, शिवाजी नगर, सावरकुण्डला-364515 (गुजरात) द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "मकावाना भोलाभाई बच्चूभाई" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/196 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन है। इसकी अधिकतम क्षमता 10 कि. ग्रा. है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जो 500 ग्रा. से 50 कि. ग्रा. तक अधिकतम क्षमता वाले हैं।

[फा. सं. डब्ल्यू. एम.-21(323)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

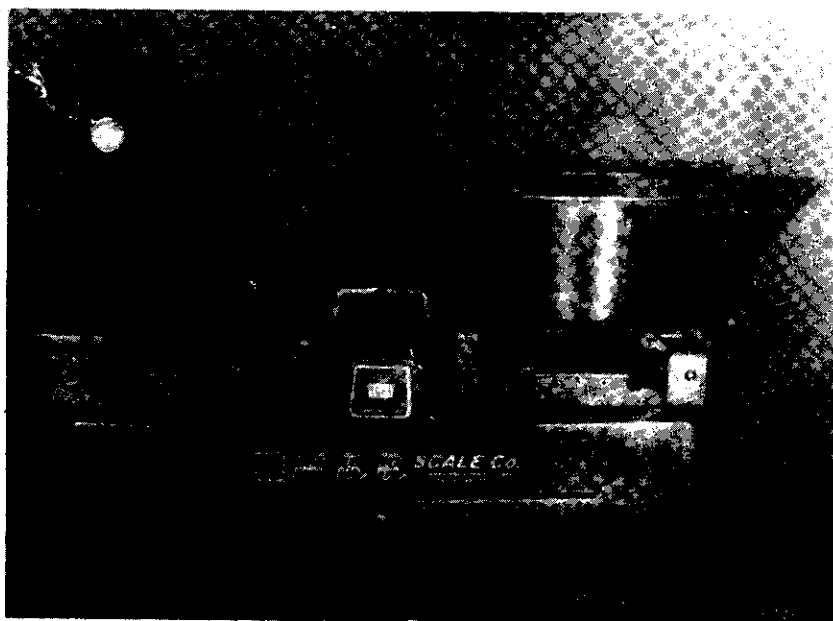
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)**

New Delhi, the 19th September, 2003

S.O. 2708.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of a Counter Machine with brand name "MAKAWANA BHOLABHAI BACHUBHAI" (herein referred to as the Model), manufactured by M/s. Makawana Bholabhai Bachubhai, Shivajinagar, Savarkundla-364515 (Gujarat) and which is assigned the approval mark IND/09/03/196;

The said model (see the figure given) is a Counter Machine. The maximum capacity is 10kg.



Further, in exercise of the power conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity ranging from 500g to 50g, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approval Model has been manufactured.

[F. No. WM-21(323)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2709.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अवरी इंडिया लिमिटेड, प्लॉट नं. 50-59, सेक्टर 25, बल्लभगढ़-121004 (हरियाणा) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "टी-301" शृंखला के इलेक्ट्रॉनिक, अंकक सूचन सहित तोलन उपकरण (बहुभार सेल वेब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम "अवरी" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/147 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल विकृतमापी भार सेल आधारित अस्वचालित (बहुभार सेल वेब्रिज प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि. ग्रा. है और मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) का है। सत्यापन मापमान (ई) का मान 5 कि. ग्रा. है। प्रदर्श यूनिट द्रव क्रिस्टल प्रदर्श (एल सी डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग प्लेट को सील करने के साथ, सीलिंग कपटपूर्ण व्यवहारों के लिए मशीन खोलने को रोकने के लिए भी की जा सकती है।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 5 टन से अधिक तथा 60 टन तक सत्यापन मापमान अंतराल 5 कि. ग्रा. या अधिक के साथ है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) 500 से 10000 की रेंज में है तथा जिनका "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(325)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2709.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (multi load cell type weighbridge) with digital indication of 'T-301' series belonging to medium accuracy (Accuracy Class-III) with brand name "AVERY" (herein referred to as the said model), manufactured by M/s. Avery India Ltd., Plot No. 50-59, Sector-25, Ballabhgarh-121004, Haryana and which is assigned the approval mark IND/09/02/147;

The said model is a strain gauge load cell based non-automatic weighing instrument of multi load cell type weighbridge of maximum capacity 30 tonne, minimum capacity 100 kg and belonging to medium accuracy class (Accuracy Class-III). The value of verification scale interval (e) is 5 kg. The display unit is of liquid crystal display, (LCD) type. The instruments operates on 230 V, 50 Hz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 60 tonne with verification interval value of 5 kg or above and number of verification scale interval (n) in the range of 500 to 10000 and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model have been manufactured.

[F. No. WM-21(325)/2001]

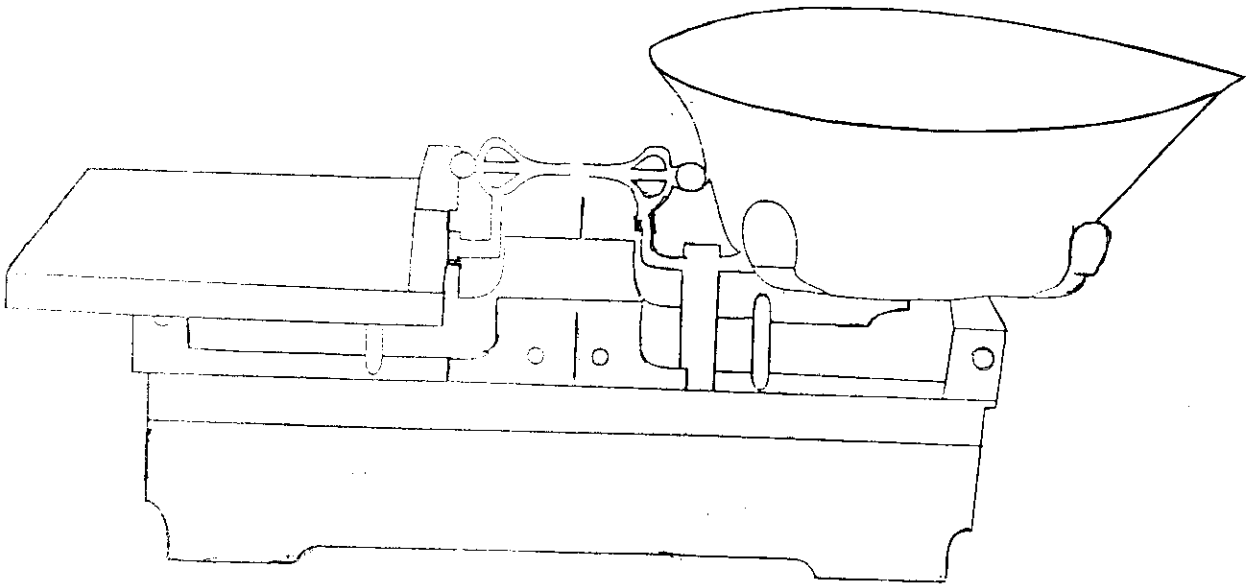
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.अ. 2710.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स लुहार बेचार नरसी, नियर गौशाला रोड, कपेलधर, सावरकुण्डला-364515 (गुजरात) द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "गणपति" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन विह्न आई एन डी/09/2003/70 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (आकृति देखें) एक काउंटर मशीन (मैकेनिकल) है। इसकी अधिकतम क्षमता 2 कि. ग्रा. है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जो 500 ग्राम से 50 कि. ग्रा. की रेंज में हैं, और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है।

[फा. सं. डब्ल्यू. एम.-21(13)/2000]

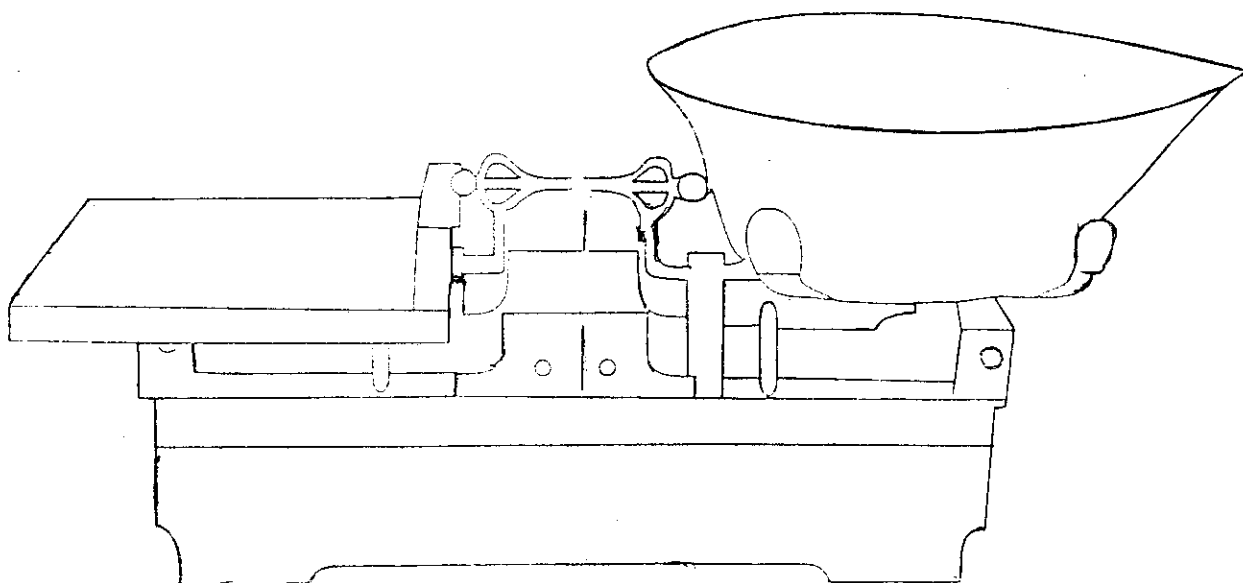
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2710.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of counter machine with brand name "GANPATI" (hereinafter referred to as the model) manufactured by M/s. Luhar Bechar Narsi, Near Gaushala Road, Kapeldhar, Savarkundla, Gujarat-364515 and which is assigned the approval mark IND/09/2003/70;

The said model (see the figure) is a counter machine (Mechanical) with a maximum capacity of 2 kg.



Further, in exercise of the power conferred by Sub-section (12) of said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy, performance, same series within the range of 500 g to 50 kg manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(13)/2000]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

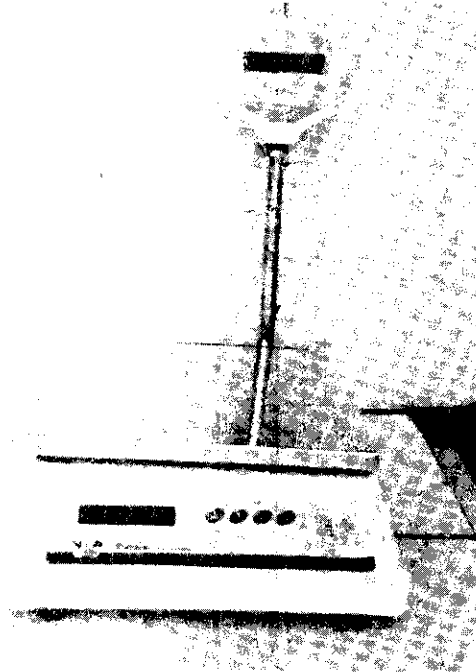
नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2711.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स विश्वास इंडस्ट्रियल प्रोडक्ट्स, कंचन 32, शिवास्कर्ती सोसाइटी, नेत्र चिकित्सालय के सामने, हाथेनल रोड, सावरकुण्डला-364515 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “वी आई पी-टी टी 12 के” शृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (दोहरी रेंज टेबल प्रकार) के मॉडल का, जिसके ब्रांड का नाम “वी आई पी” है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/345 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) दाब गेज भार सेल आधारित दोहरी रेंज का 12 कि. ग्रा. की अधिकतम क्षमता और 20 ग्रा. की न्यूनतम क्षमता सहित तोलन उपकरण है। सत्यापन मापमान अन्तराल (ई) का मान 6 कि. ग्रा. तक 1 ग्रा. और 6 कि. ग्रा. से अधिक और 12 कि. ग्रा. तक 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्याकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सील बन्द करना :—स्टाम्पिंग प्लेट को सीलबन्द करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सील बन्द की जानी चाहिए।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक “ई” मान के लिए 100 से 10000 तक के रेंज में सत्यापन मापमान अन्तराल (एन) की संख्या और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10000 तक की रेंज में सत्यापन मान अन्तराल की संख्या सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 के हैं जो धनात्मक या ऋणात्मक पूर्णांक हैं या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(144)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

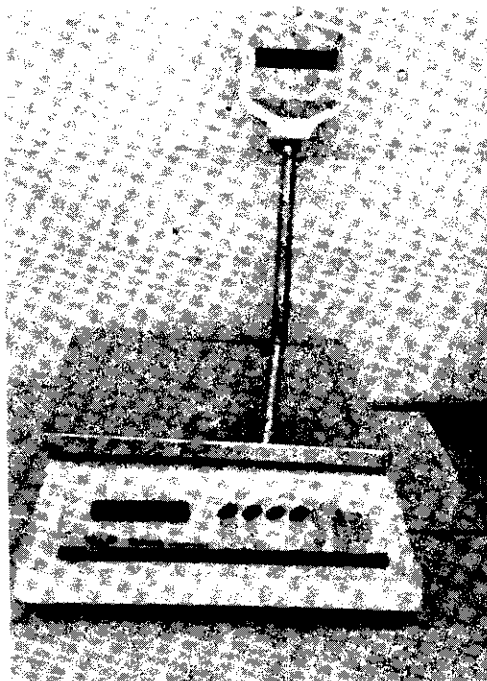
New Delhi, the 19th September, 2003

S.O. 2711.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Table type-dual range) weighing instrument with digital indication of "VIP-TT-12K" series of medium accuracy (Accuracy class III) and with brand name "VIP" (here referred to as the said Model), manufactured by M/s. Vishwas Industrial Products, Kanchan 32, Shivasakto Society, Opp: Eye Hospital, Hathenl Road, Savarkundala-364515 and which is assigned the approval mark IND/09/2003/345;

The said model (see the figure given below) is a strain gauge load cell based type dual range weighing instrument with a maximum capacity of 12kg and minimum capacity 20g. The verification scale interval (e) is 1g upto 6kg and 2g above 6kg and upto 12kg. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing : In addition to sealing the stamping plate, sealing shall also be done to prevent the opening machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 10,000 of 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved said model has been manufactured.

[No. WM-21(144)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

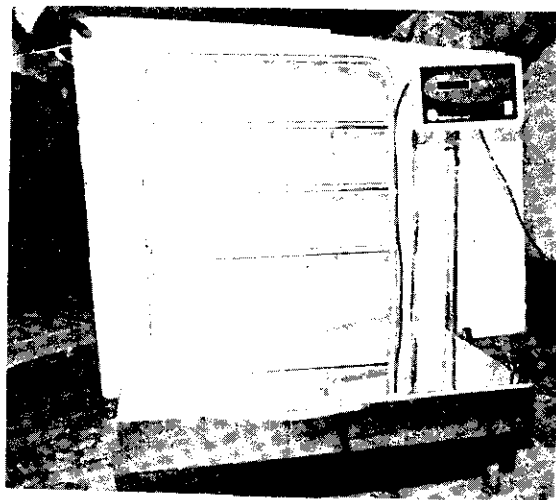
नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2712.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स विश्वास इंडस्ट्रियल प्रोडक्ट्स, कंचन 32, शिवास्कतो सोसाइटी, नेत्र चिकित्सालय के सामने, हाथेनल रोड, सावरकुण्डला-364515 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले "वी आई पी-पी एस-120 के" शृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (दोहरी रेंज प्लेटफार्म प्रकार) के माडल का, जिसके ब्रांड का नाम "वी आई पी" है (जिसे इसमें उक्त माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/346 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) दाब गेज भार सेल आधारित दोहरी रेंज का 120 कि. ग्रा. की अधिकतम क्षमता और 200 ग्रा. की न्यूनतम क्षमता सहित तोलन उपकरण है। सत्यापन मापमान अन्तराल (ई) का मान 60 कि. ग्रा. तक 10 ग्रा. और 60 कि. ग्रा. से अधिक और 120 कि. ग्रा. तक 20 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्याकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सील बन्द करना :—स्टाम्पिंग प्लेट को सीलबन्द करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सील बन्द की गई है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 10 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10000 तक की रेंज में सत्यापन मान अन्तराल की संख्या सहित 50 कि. ग्रा. से अधिक 300 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं जो धनात्मक या ऋणात्मक पूर्णांक है या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(144)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

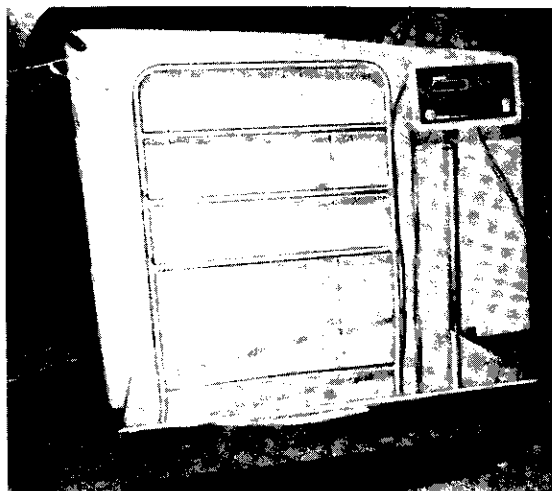
New Delhi, the 19th September, 2003

S.O. 2712.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Flat form-dual range type) weighing instrument with digital indication of "VIP-PS-120K" series of medium accuracy (Accuracy class III) and with brand name "VIP" (here referred to as the said Model), manufactured by M/s. Vishwas Industrial Products, Kanchan 32, Shivasakto Society, Opp: Eye Hospital, Hathenl Road, Savarkundala-364515 and which is assigned the approval mark IND/09/2003/346;

The said model (see the figure given below) is a strain gauge load cell based type dual range weighing instrument with a maximum capacity of 120kg and minimum capacity of 200g. The verification scale interval (e) is 10g upto 60kg and 20g above 60kg and upto 120kg. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing : In addition to sealing stamping plate, sealing done to prevent the opening machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity ranging above 50kg to 300kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 10g or more and with 'e' value 1×10^k 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[No. WM-21(144)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2713.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स जीवन नागजी एण्ड सन्स, 3, की ब्राण्ड स्केल, सावरकुन्डला-364515 (गुजरात) द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "3 की" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/71 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन (यांत्रिक) है। इसकी अधिकतम क्षमता 10 कि.ग्रा. है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत उसी शृंखला के ऐसे तोलन उपकरण भी होंगे जो जिनकी अधिकतम क्षमता 50 कि.ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है।

[फा. सं. डब्ल्यू. एम.-21(7)/2000]

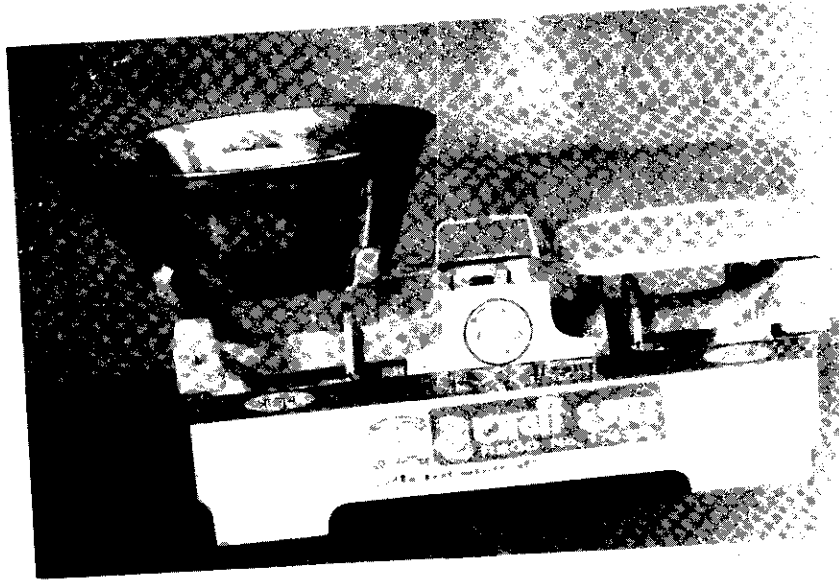
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2713.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of counter machine with brand name "3 KEY" (hereinafter referred to as the said Model), manufactured by M/s. Jivan Nagji & Sons, 3, Key Brand Scale, Savarkundla, Gujarat-364515 and which is assigned the approval mark IND/09/2003/71;

The said model (see the figure given below) is a counter machine (Mechanical) with a maximum capacity of 10kg.



Further, in exercise of the powers conferred by Sub-section (12) of the Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of same series with maximum capacity from 500g up to 50kg manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved model has been manufactured.

[No. WM-21(7)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

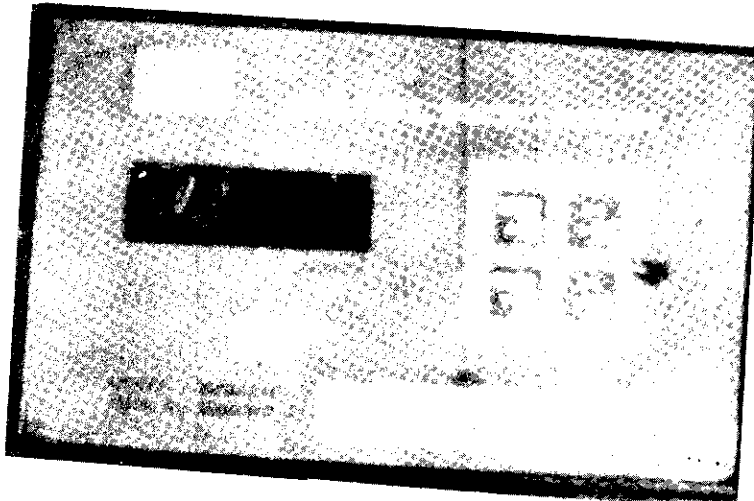
नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2714.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स टिया टेक्नालाजी 16 कोलापुर ले आउट, गंगामा सर्किल—बंगलौर-560013 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले “टिया पी डब्ल्यू 505” श्रृंखला के अस्वचालित तोलन उपकरण (प्लेटफार्म मशीन के लिए संपरिवर्तन किट) के मॉडल का, जिसके ब्रांड का नाम “एक्रेल” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/167 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल अंकक सूचन सहित भार के सिद्धांत पर कार्य करने वाला अस्वचालित तोलन उपकरण (प्लेटफार्म मशीन के लिए संपरिवर्तन किट) पर आधारित विकृत गेज टाइप भारत सेल है इसकी अधिकतम क्षमता 300 कि. ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है और जो मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) का है। सत्यापन मापमान (ई) का मान 100 ग्रा. है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श यूनिट प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सीलबन्द करने के अतिरिक्त, सीलबन्दी कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी की जा सकती है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि.ग्रा. से अधिक तथा 500 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) की अधिकतम 5 ग्रा. या इससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में है तथा जिनका “ई” मान 1×10^3 , 2×10^3 के या 5×10^3 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक है या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(141)/2002]

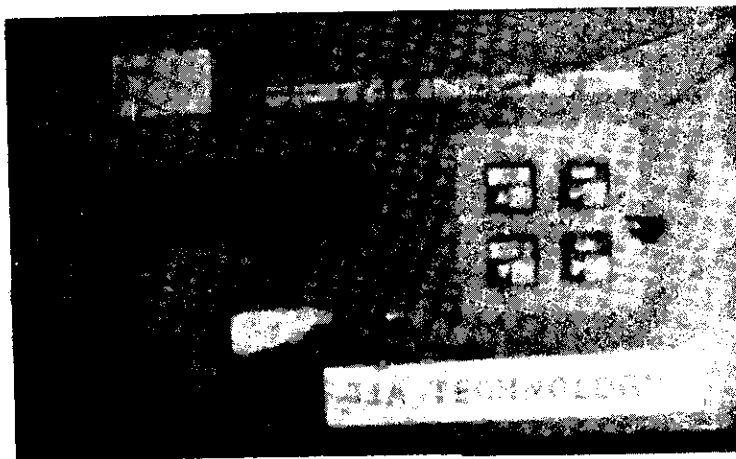
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2714.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of Model of non-automatic weighing instrument (Conversion kit for Platform Machine) with "tia-PW-505" series belonging to medium accuracy (accuracy class III) and with brand name "ACCREL" (hereinafter referred to as the said model), manufactured by M/s. tia Technology, 16, Kaiathur Layout, Gangama Circle, Bangalore-560013 and which is assigned the approval mark IND/09/2003/167;

The said model is a strain gauge type load cell based on non-automatic weighing instrument (Conversion kit for Platform machine) working on the principle of load cell with digital indication of maximum capacity 300 kg, minimum capacity 2kg. and belonging to medium accuracy class (accuracy class III). The value of verification scale interval 'e' is 100g. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 230 Volts and 50Hz alternate power supply. In addition to sealing the stamping plate, sealing may also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 500 kg and with number of verification scale interval (n) in the range of 500 to 10,000 of 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[No. WM-21(141)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2715.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स लुहार जादव जीवा, गांधी सोसाइटी, सावरकुण्डला-364515 (गुजरात) द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "एल जादव जीवा" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/199 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन है। इसकी अधिकतम क्षमता 10 कि. ग्रा. है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन के प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जो 500 ग्रा. से 50 कि. ग्रा. तक अधिकतम क्षमता वाले हैं

[फा. सं. डब्ल्यू. एम.-21(88)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2715.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of Counter Machine with brand name “3L JADAV JIVA” (herein referred to as the said Model), manufactured by M/s. Luhar Jadav Jiva, Gandhi Society, Savarkundla-364515 (Gujarat) and which is assigned the approval mark IND/09/2003/199;

The said model (see the figure given) is a Counter Machine. The maximum capacity of 10kg.



10 kg

Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity ranging from 500g up to 50kg manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(88)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2716.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल, यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स भगवान जी जीवन एण्ड सन्स, रिबर बैंक राजका पेठ, सावरकुण्डला-364515 (गुजरात) द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "भगवान जी" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/83 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन (यांत्रिकी) है। इसकी अधिकतम क्षमता 10 कि. ग्रा. है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उंसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जो जिनकी अधिकतम क्षमता 500 ग्रा. से 50 कि. ग्रा. तक की रेंज में है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है।

[फा. सं. डब्ल्यू. एम.-21(6)/2000]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2716.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of counter machine with brand name "BHAGWANJI" (herein referred to as the Model), manufactured by M/s. Bhagwanji Jivan & Sons, River Bank Rajka Peth, Savarkundla Gujarat-364515 and which is assigned the approval mark IND/09/2003/83;

The said model (see the figure) is a Counter Machine (Mechanical) with a maximum capacity of 10kg.



Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make accuracy and performance of same series with maximum capacity in the range 500g to 50kg manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(6)/2000]

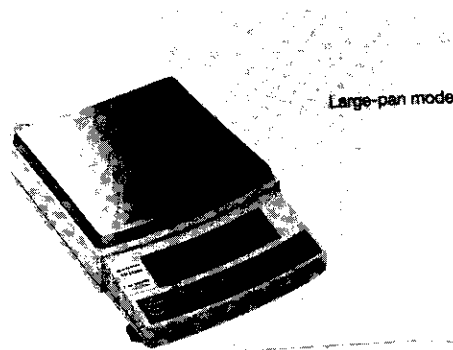
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2717.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिमाडजू इण्डिया प्राइवेट लिमिटेड, चतुर्थ तल, टेम्पल टावर, अन्नामलाई, नन्दानम, चेन्नई-600035 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग 2) वाले “बी डब्ल्यू” शृंखला के अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के माडल का, जिसके ब्रांड का नाम “शिमाडजू” है “जिसे इसमें इसके पश्चात् माडल कहा गया है” और जिसे अनुमोदन चिह्न आई एन डी/09/2002/60 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल अंकक सूचन सहित ई एम एफ सी के सिद्धांत पर कार्य करने वाला अस्वचालित और विद्युत चुम्बकीय बल प्रतिपूरण आधारित (टेबल टाप प्रकार) का तोलन उपकरण है। इसकी अधिकतम क्षमता 320 ग्रा. और न्यूनतम क्षमता 500 मि.ग्रा. है और उच्च यथार्थता वर्ग (यथार्थता वर्ग 2) का सत्यापन मापमान अन्तराल (ई) का मोन 10 मि. ग्रा. है। प्रदर्श यूनिट द्रव क्रिस्टल प्रदर्श (एल सी.डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन या बी एक्स वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित माडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 1 मि.ग्रा. से 50 मि.ग्रा. के “ई” मान के लिए 100 से 5000 की रेंज में है तथा 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50000 की रेंज में है तथा जिनका और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. स. डब्ल्यू. एम.-21(64)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2717.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of non automatic weighing instrument (table top type) with "BW" series belonging to high accuracy (accuracy class-II) and with brand name "SHIMADZU" (hereinafter referred to as the Model), manufactured by M/s. Shimadzu India Pvt. Ltd., IV Floor, Temple Tower, Anna Salai, Nandanam, Chennai-600 035 and which is assigned the approval mark IND/09/2002/60;

The said Model is a Electromagnetle force compensation based non-automatic weighing instrument (table top type) working on the principle of Electro Magnetic Force Compensation (EMFC) with digital indication of maximum capacity of 320g. minimum capacity 500mg. and belonging to high accuracy class (accuracy class-II). The value of verification scale interval 'e' is 10mg. The display unit is of liquid crystal display (LCD) type. The instruments operates on 230 V 50-Hz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series or BX with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 50,000 of 'e' value of 1mg to 50mg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model have been manufactured.

[No. WM-21(64)/2002]

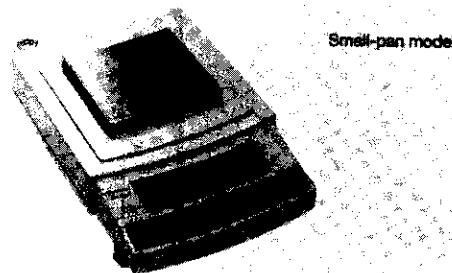
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2718.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप धीनक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिमाडजू इण्डिया प्राइवेट लिमिटेड, चतुर्थ तल, टेम्पल टावर, अन्नामलाई, नन्दानम, चेन्नई-600035 द्वारा विनिर्मित विशेष यथार्थता (यथार्थता वर्ग 1) वाले "बी डब्ल्यू" शृंखला के अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल को, जिसके ब्रांड का नाम "शिमाडजू" है "जिसे इसमें इसके पश्चात् मॉडल कहा गया है" और जिसे अनुमोदन चिह्न आई एम डी/09/2002/61 संमनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल अंकक सूचन सहित ई एम एफ सी के सिद्धांत पर कार्य करने वाला अस्वचालित और विद्युत चुम्बकीय बल प्रतिपूरण आधारित (टेबल टाप प्रकार) का तोलन उपकरण है। इसकी अधिकतम क्षमता 420 ग्रा. और न्यूनतम क्षमता 100 मि.ग्रा. है विशेष यथार्थता वर्ग (यथार्थता वर्ग 1) का सत्यापन मापमान (ई) का मान 1 मि. ग्रा. है। प्रदर्श यूनिट ग्रैविमेट्रिक प्रदर्श (एल सी डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन या बी एक्स वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदन मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 1 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 50000 से अधिक या इसके बराबर है तथा जिनका "ई" मान 1×10^6 , 2×10^6 या 5×10^6 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(64)/2002]

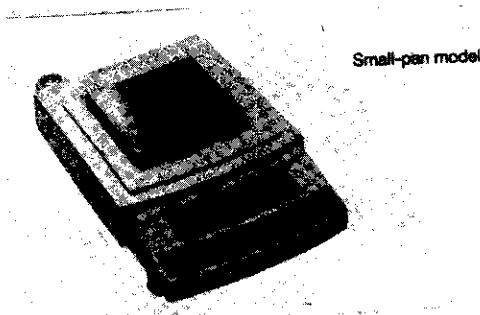
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2718.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non automatic weighing instrument (table top type) with "BW" series belonging to special accuracy class (accuracy class-I) and with brand name "SHIMADZU" (herein after referred to as the Model), manufactured by M/s. Shimadzu India Pvt. Ltd., IV Floor, Tample Tower, Anna Salai, Nandanam, Chennai-600 035 and which is assigned the approval mark IND/09/2002/61;

The said Model is a Electromagnetic force compensation based non Automatic weighing instrument (table top type) working on the principal of ELECTRO MAGNETIC FORCE COMPENSATION (EMFC) with digital indication of maximum capacity of 420g, minimum capacity 100mg, and belonging to special accuracy class (accuracy class-I). The value of verification scale interval 'e' is 1mg. The display unit is of liquid crystal display (LCD) type. The instrument operates on 230 Volts and 50-Hertz alternate power supply;



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series or BX with maximum capacity upto 50kg and with number of verification scale interval (n) more than or equal to 50,000 for 'e' value of 1mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model have been manufactured.

[No. WM-21(64)/2002]

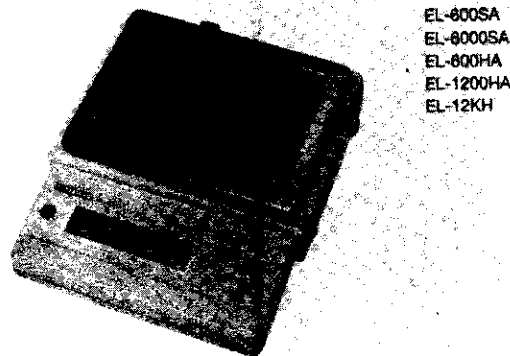
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2719.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिमाडजू इण्डिया प्राइवेट लिमिटेड, चतुर्थ तल, टेम्पल टावर, अन्नामलाई, नन्दानम, चेन्ई-600035 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग 2) वाले "ई एल" शृंखला के अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "शिमाडजू" है "जिसे इसमें इसके पश्चात् माडल कहा गया है" और जिसे अनुमोदन चिह्न आई एन डी/09/2002/59 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल विकृतमापी टाइप भार सेल आधारित अस्वचालित अंकक सूचन सहित भार सेल के सिद्धांत पर कार्य करने वाला (टेबल टाप प्रकार) का तोलन उपकरण है। इसकी अधिकतम क्षमता 300 ग्रा. और न्यूनतम क्षमता 500 मि. ग्रा. है। उच्च यथार्थता वर्ग (यथार्थता वर्ग 2) का सत्यापन मापमान (ई) का मान 10 मि.ग्रा. है। प्रदर्श यूनिट द्रव क्रिस्टल प्रदर्श (एलसीडी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि.ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित माडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 1 मि.ग्रा. से 50 मि. ग्रा. के "ई" मान के लिए 100 से 5000 की रेंज में है तथा 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50000 की रेंज में है तथा जिनका "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(64)/2002]

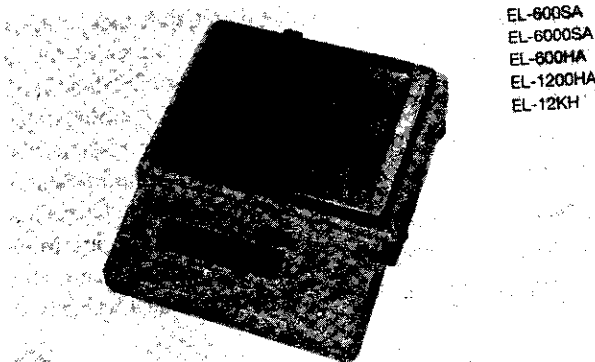
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2003

S.O. 2719.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Models described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of non-automatic weighing instrument (table top type) with "EL" series belonging to high accuracy (accuracy class-II) and with brand name "SHIMADZU" (hereinafter referred to as the model), manufactured by M/s. Shimadzu India Pvt. Ltd., IV Floor, Temple Tower, Anna Salai, Nandanam, Chennai-600 035 and which is assigned the approval mark IND/09/2002/59;

The said model is a strain gauge type load cell based non automatic weighing instrument (table top type) working on the principle of load cell with digital indication of maximum capacity 300g, minimum capacity 500 mg and belonging to high accuracy class (accuracy class-II). The value of verification scale interval 'e' is 10mg. The display unit is of Liquid Crystal Display (LCD) type. The instruments operates on 230V, 50 Hz alternative power supply.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg and with number of verification scale interval (n) in the range of 100 to 50000 for 'e' value of 1 mg to 50 mg and with the number of verification scale interval (n) in the range 5000 to 50000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k , 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model have been manufactured.

[F. No. WM-21(64)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 सितम्बर, 2003

का.आ. 2720.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन से पंजाब राज्य में भटिंडा तक मुन्द्रा-भटिंडा पाइपलाइन के माध्यम से अपरिष्कृत तेल के परिवहन के लिए गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन जारी इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उस भूमि के भीतर पाइपलाइन बिछाने के सम्बन्ध में श्री ए.आर. चौधरी, सक्षम प्राधिकारी, मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन, पंजाब रिफाइनरी परियोजना, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी), एल.पी.जी. बॉटलिंग प्लांट, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, भगत की कोठी, जोधपुर-342005 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

राज्य : राजस्थान

जिला	तहसील	गांव	खसरा	हिस्सा क्रमांक
1	2	3	4	5
हनुमानगढ़	रावतसर	कलासर	789	—

ROU क्षेत्रफल

हेक्टर	एयर	वर्ग मी.	बीघा	बिस्वा
6	7	8	9	10
—	—	—	0	11

[फा. सं. आर-31015/14/2002-ओ.आर.-II]

हरीश कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 19th September, 2003

S.O. 2720.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from crude oil terminal at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab, through Mundra-Bhatinda pipeline, a pipeline should be laid by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty-one days from the date on which copies of the notification issued under Sub-section (1) of Section (3) of the said Act, are made available to the general public, object in writing to the laying of the pipeline under the land of Shri A.R. Chaudhary, Competent Authority, Mundra-Bhatinda Crude Oil Pipeline, Punjab Refinery Project, Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited), L.P.G. Bottling Plant, Hindustan Petroleum Corporation Limited, Bhagat Ki Kothi, Jodhpur-342 005.

SCHEDULE

State : Rajasthan

District	Tehsil	Village	Survey No.	Part if any
1	2	3	4	5
Hanumangarh	Rawatsar	Kalasar	789	—

ROU—Area

Hect.	Are.	Sq. mt.	Bigha	Biswa
6	7	8	9	10
—	—	—	0	11

[F.No.R-31015/14/2002-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 22 सितम्बर, 2003

का.आ. 2721.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1150 तारीख 10 अप्रैल, 2003 द्वारा, जो भारत के राजपत्र में तारीख 12 अप्रैल 2003 को प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कारपोरेशन लिमिटेड की समनुषंगी) द्वारा मुन्द्रा-भटिण्डा अपरिष्कृत तेल पाइपलाइन परियोजना के माध्यम से गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन से पंजाब राज्य में भटिण्डा तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 5 मई, 2003 को उपलब्ध करा दी गई थीं;

और समक्ष प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाई जाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि पाइपलाइन बिछाने के लिए उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कारपोरेशन की समनुषंगी) में निहित होगा।

अनुसूची

तहसील : रानिया	जिला : सिरसा	राज्य : हरियाणा		
गांव का नाम	हदबस्त नं.	खसरा नं.	हिस्सा यदि कोई है	क्षेत्रफल कनाल-मरला
1	2	3	4	5
नकोडा	128	136	—	0-3
रानिया	137	205/8	2/2	0-1

	1	2	3	4	5
			209/2	1	0-1
			209/2	2	0-2
			209/12	1	0-1
			631	—	0-6
खारीयान	216	117/19	117/19	1	0-3
			462	—	0-4
			523	1	0-8
भूना	224	526	—	—	0-4
मैहनाखेडा	225	182	—	—	0-7
			320	—	0-2
			324	—	0-5
			330	—	0-2
			344	—	0-8
कुस्सर	226	528	—	—	0-2
बालासर	228	594	—	—	0-1
			599	—	0-7
भडोलावाली	229	163	—	—	0-5
			549	—	0-4
			559	1	0-2
			559	2	0-7
			600	1	0-6

[फा. सं. आर-31015/5/2002-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 22nd, September, 2003

S.O. 2721.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas Number S.O. 1150, dated the 10th April, 2003 published in the Gazette of India, dated the 12th April, 2003 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of crude oil from crude

oil terminal at Mundra Port in the State of Gujarat to Bhatinda in the State of Punjab through Mundra-Bhatinda Crude Oil Pipeline by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas the copies of the said Gazette notification were made available to the public on the 5th May, 2003;

And whereas the competent authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquired the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited) free from all encumbrances.

SCHEDULE

Tehsil : Rania	District : Sirsa		State : Haryana	
Name of village	Hadbast No.	Khasra No.	Part/ Hissa No. (if any)	Extent Kanal-Marla
1	2	3	4	5
Nakora Rania	128	136	—	0-3
	137	205/8	2/2	0-1
		209/2	1	0-1
		209/2	2	0-2
		209/12	1	0-1
Kharian		631	-	0-6
	216	117/19	1	0-3
		117/19	2	2-2
		462	-	0-4
Bhuna		523	1	0-8
	224	526	-	0-4

1	2	3	4	5
Mehnakhera	225	182	-	0-7
		320	-	0-2
		324	-	0-5
		330	-	0-2
		334	-	0-8
Kussar	226	528	-	0-2
Balasar	228	594	-	0-1
		599	-	0-7
Bharolanwali	229	163	-	0-5
		549	-	0-4
		559	1	0-2
		559	2	0-7
		600	1	0-6

[F. No. R-31015/5/2002-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 22 सितम्बर, 2003

का. आ. 2272.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1151 तारीख 10 अप्रैल, 2003 द्वारा, जो भारत के राजपत्र में तारीख 12 अप्रैल 2003 को प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कारपोरेशन लिमिटेड की समनुषंगी) द्वारा मुन्द्रा-भटिण्डा अपरिष्कृत तेल पाइपलाइन परियोजना के माध्यम से गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन से पंजाब राज्य में भटिण्डा तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 5 मई, 2003 तक उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाई जाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि पाइपलाइन बिछाने के लिए उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कारपोरेशन लिमिटेड की समनुषंगी) में निहित होगा।

अनुसूची

गांव का नाम	हदबस्त नं.	खसरा नं.	हिस्सा यदि कोई है	क्षेत्रफल कनाल-मरला
1	2	3	4	5
खारीया	216	90/8	—	0-14
मैहनाखेड	225	28/22	—	0-3
कुस्सर	226	556	—	0-5

[फा. सं. आर.-31015/5/2002-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 22nd September, 2003

S.O. 2722.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas Number S.O. 1151, dated the 10th April, 2003 published in the Gazette of India, dated the 12th April, 2003 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of crude oil from crude oil terminal at Mundra Port in the State of Gujarat to Bhatinda in the State of Punjab through Mundra-Bathinda Crude Oil Pipeline by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas the copies of the said Gazette notification were made available to the public on the 5th May, 2003;

And whereas the competent authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited) free from all encumbrances.

SCHEDULE

Tehsil : Rania	District : Sirsa	State : Haryana		
Name of village	Hadbast No.	Khasra No.	Part/Hissa No. (if any)	Extent Kanal-Marla
1	2	3	4	5
Kharlan	216	90/8	—	0-14
Mehnakhera	225	28/22	-	0-3
Kussar	226	556	-	0-5

[F. No. R-31015/5/2002-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 22 सितम्बर, 2003

का. आ. 2723.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि महाराष्ट्र राज्य में पनेवाडी (मनमाड) संस्थापन से मध्यप्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की

प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इसी दिन के भीतर भूमि के नीचे पाइपलाइन खिछाने के संबंध में श्री वी.पी. पाठक, सक्षम प्राधिकारी, मुंबई-मनमाड पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कॉरपोरेशन लिमिटेड, सी/19-ए, स्कीम नं. 78, स्लाइस नं. 5, ए.बी. रोड, इन्दौर-452010 (मध्यप्रदेश) को आक्षेप भेज सकेगा।

अनुसूची

तहसील : सेंधवा	जिला : बड़वानी	राज्य : मध्य प्रदेश
ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल—हेक्टेयर
1	2	3
1. जामली	109/1/1, 109/3	0.0650
	21	0.1800
	23/2	0.2630
	151 भाग	0.6480
	152	0.0400
2. कलालदा	86/2	0.0630
3. वाकी	46	0.1220
	44/1	0.0780
	72	0.0340
	74/3	0.0900
	56	0.0382
4. बनिहार	5	0.0144
	12	0.4000
	1/5	0.1760
	1/6	0.1640
	11, 13	0.2060
	45	0.1750
	2/1	0.3680
	2/2	0.3100
5. नवलपुरा	138/1	0.0324
	182	0.1490
	2/1/1, 1/2/4	0.2290
	2/1/2	0.3558
	148/13	0.2160
	178 (G.Drain)	0.0216
6. जुलवानिया	201/6	0.0320
7. अंजनगांव	62/1/1/1/1/1/2	0.2240
	52/2/1/1/1	
	53/1, 52/2/1	
	99/6	
	14-52/2/1/1/2	0.3660

1	2	3
8. भामनिया	17/3	0.1270
	111	0.1020
9. शाहपुरा	107	0.0120
	161/32/1	0.2376
	93/2	0.2050
10. नान्दया	169/217/1	0.3240
	169/187/1	0.1210
	169/186/1	0.2520
	169/185	0.1440
11. सोलवन	12	0.2080
	11/2	0.0680
	44/1	0.1800
	61/2	0.0900
	262/2	0.1080
	340/3, 340/4	0.3040
	51/2	0.4430
	39/15	0.1850
	16/12	0.0990
	16/13	0.3240
	16/16	0.1170
	342 G. L.	0.1800
	17	0.0720
12. मालवन	98/1, 98/2	0.0074
	306	0.0650
	288/3	0.4180
	301/1	0.1080

[फा. सं. आर-31015/26/2001-ओ.आर.- II]

हरीश कुमार, अवर सचिव

New Delhi, the 22nd September, 2003

S.O. 2723.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from Panewadi (Manmad) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by Bharat Petroleum Corporation Limited;

And, whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the laying of the pipeline under the land, to Shri V.P. Pathak, Competent Authority, Mumbai-Manmad Pipeline Extension Project, Bharat Petroleum Corporation Limited, C/19-A, Scheme No. 78, Slice No. 5, A.B Road, Indore - 452010 (Madhya Pradesh).

SCHEDULE

TEHSIL: SENDHWA	DISTRICT: BADWANI	STATE: MADHYA PRADESH
NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
1	2	3
1. JAMLI	109/1/1, 109/3	0.0650
	21	0.1800
	23/2	0.2630
	151 Part	0.6480
	152	0.0400
2. KALALDA	86/2	0.0630
3. VAKI	46	0.1220
	44/1	0.0780
	72	0.0340
	74/3	0.0900
	56	0.0382
4. BANIHAR	5	0.0144
	12	0.4000
	1/5	0.1760
	1/6	0.1640
	11, 13	0.2060
	45	0.1750
	2/1	0.3680
	2/2	0.3100
5. NAVALPURA	138/1	0.0324
	182	0.1490
	2/1/1, 1/2/4	0.2290
	2/1/2	0.3558
	148/13	0.2160
	178(G.DRAIN)	0.0216

1	2	3
6. JULWANIYA	201/6	0.0320
7. ANJANGAON	62/1/1/1/1/1/2	0.2240
	52/2/1/1/1	
	53/1, 52/2/1	
	99/6	0.0630
	14-52/2/1/1/2	0.3660
8. BHAMNIYA	17/3	0.1270
	111	0.1020
9. SHAHPURA	107	0.0120
	161/32/1	0.2376
	93/2	0.2050
	169/217/1	0.3240
10. NANDYA	169/187/1	0.1210
	169/186/1	0.2520
	169/185	0.1440
11. SOLVAN	12	0.2080
	11/2	0.0680
	44/1	0.1800
	61/2	0.0900
	262/2	0.1080
	340/3, 340/4	0.3040
	51/2	0.4430
	39/15	0.1850
	16/12	0.0990
	16/13	0.3240
	16/16	0.1170
	342(G.L)	0.1800
	17	0.0720
12. MALVAN	98/1, 98/2	0.0074
	306	0.0650
	288/3	0.4180
	301/1	0.1080

[F. No. R-31015/26/2001-OR-II]

HARISH KUMAR, Under Secy.

श्रम मंत्रालय

SCHEDULE

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2724.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 286/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-08-2003 को प्राप्त हुआ था।

[सं. एल-20012/398/2001-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 28th August, 2003

S.O. 2724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 286/2001) of the Central Government Industrial Tribunal cum Labour Court, II Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/398/2001-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT,
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present : B. Biswas
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act., 1947.

REFERENCE NO. 286 OF 2001

Parties : Employers in relation to the management of Bararee Colliery of Ms./ B.CCL and their workman.

APPEARANCES :

On behalf of the workman	:	None.
On behalf of the Employers	:	Shri U. N. Lal, Advocate.
State	:	Jharkhand
Industry	:	Coal

Dated, Dhanbad, the 1st August, 2003

ORDER

The Govt. of India, Ministry of Labour in exercise of powers conferred on them under section 10 (1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/398/2001-IR(Coal-I) dated 30th October, 2001.

"Whether the stand of the management of Bararee Colliery of BCCL's denial of employment to Sri Israil Khan, S/o. Late Israfil Khan is justified? If not, to what relief in the said dependent entitled?"

2. In this reference neither the concerned workman nor his representative appeared. However, the management side appeared through their authorised representative and filed authority. It appears from the record that the instant reference was received by this Tribunal on 22.11.2001 and since then it is ending for disposal. Registered notices and show cause notices were issued to the workman/union but inspite of the issuance of notices they failed to turn up. In terms of Rule 10B of the I.D. Central Rules, 1957 submission of W.S. by the concerned workman within 15 days is a mandatory one. The concerned workman not only violated the said provision of the Rules but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is that what will be the fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference in issue on merit. In view of the decision of the Hon'ble Apex Court reported in 2002 (94) FLR 624 it will not be just and proper to pass a 'No dispute' Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter Suo moto with the expectations for appearance of the workman inspite of issuance of registered notices. As per I.D. Act the workmen excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the union for their workmen. These unions inspite of receiving notices did not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Until and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides.

Here the record will clearly expose that sufficient opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing. of the case for disposal on merit.

Under the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite

period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 61/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-08-2003 को प्राप्त हुआ था।

[सं. एल-20012/139/95-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S.O. 2725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/96) of the Central Government Industrial Tribunal, II Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/139/95-IR(C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

Present : Shri B. Biswas,
Presiding Officer.

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act., 1947.

REFERENCE NO. 61 OF 1996

Parties : Employers in relation to the management of Govindpur Area No. III of Ms./BCCL and their workman.

APPEARANCE:

On behalf of the workman	:	S. N. Goswami, Advocate.
On behalf of the Employers	:	Shri D. K. Verma, Advocate.
State	:	Jharkhand
Industry	:	Coal

Dated, Dhanbad, the 5th August, 2003

AWARD

The Govt. of India, Ministry of Labour in exercise of powers conferred on them under section 10 (1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/139/95-IR(Coal-I) dated the 14th May, 1996.

SCHEDULE

"Whether the Union's demand for reassessment of the age by Apex Medical Board in case of Smt. Daulatati Kamin is justified? If so, to what relief is the workman entitled to?"

2. In course of hearing of the instant dispute learned Advocate for the Workman submitted has prayer to pass a 'No dispute' Award as the concerned workman involved in it is not interested to proceed with the hearing of this case. Learned Advocate for the management raised no objection if the instant dispute is disposed of on the basis of 'No Dispute' Award. Heard both sides. Since the workman involved in the reference is not interested to proceed with the hearing of this case, there is no reason to drag on the same. Under such circumstances, a 'No dispute' Award is rendered and the reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 2/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-08-2003 को प्राप्त हुआ था।

[सं. एल-20012/417/95-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S.O. 2726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/97) of the Central Government Industrial Tribunal, II Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/417/95-IR(C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present : B. Biswas,
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

REFERENCE NO. 2 OF 1997

Parties : Employers in relation to the management of Jealgora Area of Ms./B.CCL and their workman.

APPEARANCES:

On behalf of the workman : Mr. K. Chakravorty,
Advocate
On behalf of the Employers : Shri D. K. Verma,
Advocate
State : Jharkhand
Industry : Coal

Dated, Dhanbad, the 5th August, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/417/95-IR(C-1) dated the 2nd January, 1997.

SCHEDULE

“Whether the demand of the Union for re-assessment of the age of Sh. Ram Chandra Singh is legal and justified? If so, to what relief is the concerned workman entitled?”

In course of hearing of the instant reference learned Advocate for the workman submitted his prayer that the workman is not interested to proceed with this case and accordingly prayed to pass a ‘No dispute’ Award. Learned Advocate for the management raised no objection if the instant dispute is disposed of on the basis of ‘No dispute’ Award. Since the workman involved in this dispute is not willing to contest the case, there is no reason to drag on the same. Accordingly a ‘No dispute’ Award is rendered and the instant reference is disposed of on the basis of ‘No dispute’ Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2727.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन ई पी सी एयरलाइन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, मुम्बई के पंचाट (संदर्भ संख्या 167/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2003 को प्राप्त हुआ था।

[सं. एल-11012/11/98-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S.O. 2727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 167/98) of the Central Government Industrial Tribunal-cum-Labour Court II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 27-8-2003.

[No. L-11012/11/98-IR(C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT,
INDUSTRIAL TRIBUNAL NO. 2 MUMBAI**

**Present : S. N. Sundankar,
Presiding Officer**

**REFERENCE NO. CGIT-2/167 OF 1998
EMPLOYERS IN RELATION TO THE MANAGEMENT
OF NEPC AIRLINES**

The Chairman & Managing Director,
NEPC Airlines,
36, Walajah Road,
Chennai-600 002.

V/s.

Their Workmen

Mr. Vallabh Swaroop Maheshwari,
D/2, Park Bay Society,
Vidya Nagari Marg,
Santacruz (East),
Mumbai-400 098.

APPEARANCES:

For the Employers : Mr. M.B. Anchan,
Advocate.
For the workman : Mr. Mohan Bir
Singh, Advocate.

Mumbai, dated, 26th June, 2003

AWARD

The Govt. of India, Ministry of Labour by its Order No. L-11012/11/98/IR(C-1) dated 7-12-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of NEPC Airlines in terminating the services of Shri Vallabh Swaroop Maheshwari, Aircraft Maintenance Engineer w.e.f. 30-4-1997 is legal and justified? If not, to what relief is the workman entitled?”

2. Shri Maheshwari was appointed as Aircraft Maintenance Engineer in the NEPC Airlines, Mumbai w.e.f. 10-1-1996. Vide Statement of Claim (Exhibit-6) Maheshwari pleaded that he was discharging his duties efficiently with loyalty, however without issuing show cause notice and giving retrenchment compensation and holding inquiry he was abruptly terminated by the letter dated 30-4-1997 without complying the provisions of Section 25F of the I.D. Act, therefore his termination is illegal. It is averred that Maheshwari had approached the A.L.C. (C) Mumbai who in turn, tried conciliation however failed. It is contended that Maheshwari's termination being unjustified management Airlines be directed to reinstate him with full back wages.

3. Management Airlines resisted the claim of Maheshwari by filing Written Statement (Exhibit-12) contending that Maheshwari was appointed on probation. Since his services during the probationary period were not satisfactory he was not confirmed in the service and consequently he was terminated from 30-4-1997. It is averred that Shri Maheshwari is not a 'workman' as he was working in managerial and supervisory capacity and therefore question of issuing him notice and retrenchment compensation does not arise. It is further averred that since workman was a probationer provisions of the I.D. Act do not come into play. It is further averred that due to impounding of the aircrafts in May, 1997 and financial loss the company was closed since June 1997, consequently question of reinstatement of Shri Maheshwari does not arise. For all these reasons company contended that Maheshwari's claim being devoid of substance be dismissed with costs in limine.

4. By Rejoinder (Exhibit-13) workman reiterated the recitals in the Statement of Claim denying the averments in the Written Statement contending that he was on probation for a period of six months commencing from 10-1-1996 and that probation was not extended therefore he deemed to have been confirmed w.e.f. 10-7-1997 and that his services were terminated from 30-4-1997 which is beyond the period of probation and therefore his claim stands.

5. On the basis of pleadings issues were framed at Exhibit-14 and in that context Maheshwari filed affidavit in lieu of Examination-in-Chief (Exhibit-16) and closed oral evidence vide purshis (Exhibit-17). Management company however, did not lead oral evidence vide purshis (Exhibit-18).

6. Maheshwari filed written submissions (Exhibit-19) and the management company (Exhibit-20). On perusing the record as a whole, written submissions and hearing the counsels, I record my findings on the issues for the reasons mentioned below :

Issues	Findings
1. Whether the action of the management of NEPC Airlines in terminating the services of Shri Vallabh Swaroop Maheshwari, Aircraft Maintenance Engineer, w.e.f. 30-4-1997 is legal and justified?	Action of the Management is neither legal nor justified.
2. If not, what relief the workman is entitled?	As per order below.

REASON

7. Admittedly Shri Maheshwari was appointed as Aircraft Maintenance Engineer w.e.f. 10-1-1996 and that his services were terminated from 30-4-1997 i.e. after completion of 240 days. According to Maheshwari without

giving him notice, notice pay and retrenchment compensation and without holding domestic inquiry he was terminated and therefore his termination is illegal. Management airlines did not lead oral evidence to rebut the same. Nothing to show that airlines before terminating Maheshwari complied the provisions of Section 25F of the Industrial Disputes Act. It is therefore apparent that his termination was contrary to the provisions of the Industrial Disputes Act and hence illegal.

8. The Learned Counsel Mr. Anchan for the Management airlines submits that due to impounding of aircrafts in May, 1997 and the financial losses the company was closed since June 1997, therefore, question of reinstatement of Maheshwari does not arise. Maheshwari in his cross-examination para 10 admits on closure of airlines in July 1997. Maheshwari was illegally terminated w.e.f. 30-4-1997 and that company was closed in the month of July 1997, consequently he was entitled to reinstatement for the period May and June, 1997 with monetary benefits. On perusal of the record it is seen Maheshwari had filed Application No. LC-2/57 of 1997 for recovery of arrears of pay and allowances and that my Learned Predecessor vide order dated 30-7-1998 holding Maheshwari as workman within the definition of Section 2(s) of the Industrial Disputes Act had directed the management airlines to pay him wages and allowances prior to July, 1997 thereby the pay and allowance for the period of May and June remained to be unpaid and that he is entitled to receive the same from the management. Consequently issues are answered accordingly and hence the order :

ORDER

The action of the management of NEPC Airlines in terminating the services of Shri Vallabh Swaroop Maheshwari, Aircraft Maintenance Engineer w.e.f. 30-4-1997 is neither legal nor justified. The workman Maheshwari though deserves to be reinstated since airlines closed in the month of July 1997 is entitled for the pay and allowances of two months prior to closure i.e. May and June, 1997.

Management to pay the wages and allowances for the said period to workman within three months from today.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2728.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 151/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2003 को प्राप्त हुआ था।

[सं. एल-20012/423/95-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S.O. 2728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 151/96) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/423/95-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT,
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT : Shri B. Biswas,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act., 1947.

REFERENCE NO. 151 OF 1996

PARTIES : Employers in relation to the Maheshpur
Koyala Khan of M/s. B.C.C.L and their
workman.

APPEARANCES :

On behalf of the workman	:	None
On behalf of the Employers	:	Shri D.K. Verma, Advocate
State	:	Jharkhand
Industry	:	Coal

Dated, Dhanbad, the 7th August, 2003

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10 (1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/423/95-IR(Coal-I) dated the 18th December, 1996.

SCHEDULE

“Whether the action of the management of Govindpur Area No. III of M/s. BCCL in denying to refer Sh. Jagdeo Bhuia, Trammer to the Apex Medical Board for the assessment of his age is justified? If not, to what relief is the workman entitled?”

2 The case of the concerned workman according to the Written Statement submitted by the sponsoring union on his behalf in brief is as follows :—

They submitted that father of the concerned workman was a workman at Maheshpur colliery and his date of birth in the official register of the said colliery was recorded as 16-1-1928. They submitted that the concerned workman got his appointment in the said colliery and his date of appointment in the service excerpt was recorded as 31-1-72. While this date of birth was recorded as 28-4-37. They submitted that recording of such date of birth of the

concerned workman was absolutely arbitrary because of the fact that in no circumstances he could be younger by nine years from his father. They further submitted that in Col. 6 of the service excerpt while his date of birth was recorded as 28-4-87 in column 13 his age was recorded as 25 years as on 5-7-87 i.e. he was more than 34-years old at the time of his entry in the service which at all was not feasible for getting appointment of any workman in a Govt. undertaking company. They submitted that such gross anomaly was evident the concerned workman submitted representation to the management for assessment of his age by competent Medical Board but as the management refused to do so he raised an industrial dispute before the ALC (C) Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication. Accordingly, the sponsoring union submitted prayer to pass award directing the management to assess the age of the concerned workman by Appex Medical Board and other consequential relief.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman. They submitted that date of birth of the concerned workman was recorded as 28-4-37 in the Form B Register which is maintained under Section 48 of the mines Act, 1952 and the same had considered as conclusive proof for deciding the date of superannuation as per provision laid down in CL. 37 of the Certified Standing Order. However, in the year 1987 management issued service excerpt to the concerned workman clarifying that his date of birth was recorded as 28-4-37 in the statutory record and he could raise his objection if he considered that the said date of birth was wrongly recorded. They submitted that the concerned workman submitted his service excerpt after filling up the blank columns putting his signature without challenging the correctness of entries made therein and as such the date of birth recorded in the service excerpt was considered as final and conclusive. They alleged that knowing fully wall of all these facts the sponsoring union on behalf of the concerned workman raised an industrial dispute before the ALC (C) Dhanbad at the fag end of his service. They disclosed that the concerned workman was superannuated from his service on 28-4-97 and he received all his dues and retirement benefits from the management and for which the present dispute is not maintainable in the eye of law. They submitted that they did not commit any illegality or took any arbitrary decision in superannuating the concerned workman from his service on 28-4-97 on attaining his age of 60 years and accordingly they submitted prayer to pass award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are :—

“Whether the action of the management of Govindpur Area No. III of M/s. B.C.C.L. in denying to refer

Sh. Jagdeo Bhuia, Trammer to the Apex Medical Board for the assessment of his age is justified? If not, to what relief is the workman entitled?"

FINDING WITH REASONS

5. It transpires from the record that neither the concerned workman nor the management adduced any evidence in order to substantiate their respective claim. It is admitted fact that the concerned workman got his appointment at Maheshpur colliery under Govindpur Area No. III on 31-1-72. The contention of the concerned workman is that his date of birth in the service excerpt was recorded as 28-4-37 illegally and arbitrarily by the management. He submitted that his father was also a workman of Maheshpur colliery and in the Statutory Form B register his date of birth was recorded as 16-1-1928. Referring the date of birth of his father he submitted that under any circumstances he could not be junior to his father by only nine years. Accordingly he submitted representation to the management with a prayer for assessment of his age through Apex Medical Board which was turned down illegally, arbitrarily and violating the principle of natural justice.

6. Considering the facts disclosed in the pleadings of both sides it is clear that date of birth of the concerned workman not only in the Form B Register but also in the service excerpt was recorded as 28-4-37. Management submitted that in the year 1987 service excerpt was given to the concerned workman with a view to give him the scope to raise dispute over any entry made therein for consideration and rectification. They disclosed that the concerned workman without raising any dispute relating to date of birth recorded in the service excerpt returned back the same after making his endorsement therein. Accordingly date of birth recorded therein and also in the Form B Register was considered as formal and conclusive. Accordingly due notice was given to him before the date of his superannuation and thereafter he was superannuated from his service with effect from 28-4-97 and he received all his dues including retirement benefit. They alleged that at the fag end of his service he raised the Industrial dispute through his union illegally with a view to harass them.

7. After careful consideration of all the materials on record it is evident that the concerned workman did not raise any dispute even after seeing his date of birth recorded in the service excerpt as 28-4-37. On the contrary after making his endorsement he returned back the same to the management. It is clear that at the fag end of his service carrier he raised the Industrial dispute challenging his date of birth recorded in the service excerpt but did not consider necessary to assign any reason why he made such long delay in raising the dispute and also why he kept himself silent, when he returned back the service excerpt duly signed by him. The specific contention of the concerned

workman is that his father was a workman of Maheshpur colliery and his date of birth was recorded as 16-1-28 while his date of birth was recorded as 28-4-37. Disclosing the date of birth of his father he submitted that in any circumstances he could not be junior to his father by nine years only. In spite of claiming so the concerned workman did not consider necessary to submit a single scrap of paper. It transpires from the record that he sworn an affidavit in support of his claim. Facts disclosed in the affidavit is the own fact of its maker and for which there is no scope to accept the same until and unless it is substantiated by cogent evidence. I find no hesitation to say that the concerned workman lamentably has failed to produce any paper to show that date of birth of his father was 16-1-28 though he had enough scope to produce the same. Considering the written statement it has been exposed that he came to know his date of birth as 28-4-37 when in the year 1987 service excerpt was issued to him by the management. It transpires from the record that the management issued identity card to the concerned workman on 31-7-72, i.e. a few months after joining his service. In the Identity card date of birth of the concerned workman was recorded as 28-4-37 which was very much within his knowledge. Therefore, it is not the fact that he came to know his date of birth on receipt of his service excerpt. It is therefore, clear that from July, 1972 to 1996 he kept himself silent about his date of birth recorded in the Form B Register and to that effect he did not utter a single word. He also did not give any explanation to that effect.

According after careful consideration of all the facts and circumstances and in view of my discussion above I find no hesitation to say that the demand of the concerned workman was nothing but a stale demand and for which he is not entitled to get any relief.

In the result, the following Award is rendered :—

The action of the management of Govindpur Area No. III of M/s. BCCL in denying to refer Sh. Jagdeo Bhuia, Trammer to the Apex Medical Board for the assessment of his age is justified. Consequently, the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 255/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-08-2003 को प्राप्त हुआ था।

[सं. एल-22012/484/98-आई आर (सी-1)]

एस. एस. गुप्ता, अवसर सचिव

New Delhi, the 28th August, 2003

S.O. 2729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 255/99) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-22012/484/98-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT,
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. BISWAS,
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act, 1947

REFERENCE NO. 255 OF 1999

PARTIES: Employers in relation to the Management
of M/s. B.C.C.L. and their workman.

APPEARANCES:

On behalf of the workman : Shri S.C. Gaur,
Advocate.
On behalf of the Employers : Shri D.K. Verma,
Advocate.
State : Jharkhand
Industry : Coal

Dated, Dhanbad, the 4th August, 2003

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/484/98-IR(C-I) dated the 4th June, 1999.

SCHEDULE

“Whether the action of the management of Loyabad Colliery of M/s. B.C.C.L. in not regularising Sri Surendra Sinha as Telephone Operator since, 1985 is justified? If not, to what relief the concerned workman is entitled?”

2. In course of hearing of the instant reference Mr. S.C. Gaur, learned Advocate for the workman submitted his prayer to pass a ‘No dispute’ Award in the instant case as the concerned workman is not interested to proceed with the hearing of this case. Mr. D.K. Verma, learned Advocate for the management raised no objection if the instant reference is disposed of on the basis of ‘No dispute’ Award. Heard both sides. Since the concerned workman

involved in the dispute is not interested to proceed with in the matter of hearing of this case there is no reason to drag on the same. Under the circumstances, a ‘No dispute’ Award is rendered and the instant reference is disposed of on the basis of ‘No dispute’ Award presuming non-existence of any industrial dispute between the parties, presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का० आ० 2730.—औद्योगिक विवाद अधिनियम, 1947 (1947 की 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-11, धनबाद के पंचाट (संदर्भ संख्या 75/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2003 को प्राप्त हुआ था।

[सं. एल-20012/180/95-आई आर (सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the-28th August, 2003

S.O. 2730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/96) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/180/95-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. BISWAS,
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act, 1947

REFERENCE NO. 75 OF 1996

PARTIES : Employers in relation to the management
of M/s. B.C. C.L. and their workman.

APPEARANCES:

On behalf of the workman : K. Chakravorty,
Advocate.
On behalf of the Employers : Shri H. Nath,
Learned Advocate.
State : Jharkhand
Industry : Coal

Dated, Dhanbad, the 5th August, 2003

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10 (1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/180/95-IR(C-I) dated the 26th July, 1996.

SCHEDULE

"Whether the demand of the Union for regularisation by the management of Mohuda Area No. II of M/s. B.C.C.L. of S/Sh. Bhuneshwar Mahto, Haripado Gope and Bhim Mahato as Dumper Driver in Cat. V w.e.f. 29-8-89 is justified? If so, to what relief the concerned workmen are entitled?"

2. In course of evidence Learned Advocate for the workman submitted that the concerned workman are not willing to proceed with the hearing of this case and accordingly submitted his prayer to pass a 'No dispute' Award in this reference. Learned Advocate for the management raised no objection if the instant reference is disposed of on the basis of 'No dispute' Award. Heard both the sides. Since the workmen involved in the reference are not willing to contest the case, there is no reason to drag on the same. Under the circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

क्रा० आ० 2731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- II, धनबाद के पंचाट (संदर्भ संख्या 19/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2003 को प्राप्त हुआ था।

[सं. एल-20012/425/95-आई आर (सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S.O. 2731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/97) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/425/95-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. BISWAS,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

REFERENCE NO. 19 OF 1997

PARTIES: Employers in relation to the management of Kusunda Area of M/s. B.C.C.L. and their workman.

APPEARANCES:

On behalf of the workman : Shri B. N. Singh,
Advocate.

On behalf of the Employers : Shri D. K. Verma,
Advocate.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 4th August, 2003

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under section 10 (1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/425/95-IR(Coal-I) dated, the 14th January, 1997.

SCHEDULE

"Whether the action of the management of Kusunda Area of M/s. B.C.C.L. in denying promotion to Sh. B.N. Singh in T & S Grade 'A' w.e.f., December, 1991 is justified? If not, to what relief is the said workman entitled?"

2. In this reference both the parties appeared. However, in course of hearing Mr. B.N. Singh representing the workman submitted his prayer to pass a 'No dispute' Award in this case as the concerned workman involved in this dispute is not interested to proceed with it. Learned Advocate for the management raised no objection if the instant reference is disposed of on the basis of 'No dispute' Award. Heard both sides. Since the concerned workman is not interested to proceed with the hearing of this case there is no reason to drag on the same. Under the circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.एम.पी.डी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 45/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2003 को प्राप्त हुआ था।

[सं. एल-20012/124/92-आई.आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S.O. 2732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/93) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CMPDL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/124/92-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

SHRI B. BISWAS,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 45 of 1993

PARTIES: Employers in relation to the management of C.M.P.D.I.L. Ranchi and their Workmen.

APPEARANCES :

On behalf of the Workman : None

On behalf of the Employers : Shri R.N. Mishra,
Personnel Officer.

State : Jharkhand Industry : Mine Planning

Dated, Dhanbad, the 12th August, 2003

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following

dispute to this Tribunal for adjudication vide their Order No. L-20012(124)/92-IR (Coal-I), dated, the 30th April, 1993.

SCHEDULE

"Whether the action of the management of M/s. Central Mine Planning and Design Institute Ltd., Ranchi is justified in not regularising the services of the workmen S/Shri Nilkanth Kubhkar, Gopal Gope, Karmchand Gope, Wakil Gope, Devi Dayal Singh, Sarju Kumar Upadhyay, Ghopal Gope and Dilip Gope who are alleged to have been employed from 7-3-1988, 1-10-80, 1-1-89, 14-1-89, 15-2-89, 8-4-89, 1-8-89 and 9-9-89 respectively as General Mazdoor Cat. 1 ? If not, to what relief these workmen are entitled and from what date?"

1. The case of the concerned workman according to Written Statement submitted by the sponsoring union on their behalf brief is as follows :—

They submitted that the concerned workmen were employed as General Mazdoors in Cat. I at Parbhatpur Drilling Camp by the management on different dates in between March, 1988 to August, 1999. They submitted that engagement of casuals for regular nature of jobs in C.M.P.D.I.L. has been the usual practice, without any uniform procedure and casuals have been engaged from verbal to written approval from Director or C.M.D. with or without concurrence of finance authority and there has been no definite practice for issuing of either formal appointment orders or termination orders to casuals.

2. They submitted that from the very inception of Drilling exploration department, casuals were employed and taken to Master Rolls. They alleged that following the filing of Writ Petition No. 9677 of 1983, Nani Gopal Mitra vs. Union of India and others before the Hon'ble Supreme Court seeking regularisation of casuals, the C.M.P.D.I. management during the year 1986 introduced the practice of employing workman on contract for exploiting the workmen and also to deprive them from their legitimate claim.

3. They further submitted that the management initially employed a large number of workmen on voucher payment and were placed in Cat. I from the very initial date of employment and thereafter by adopting pick and choose policy they regularised the services of some workmen in different posts and thereby abused employment opportunity as of their choice.

4. They submitted that engagement of casuals as per contract or contract labour on regular or perennial nature of jobs by public sector was declared banned by order issued by Govt. of India during February, 1984. Moreover under the N.C.W.A. it was specifically agreed that contractor or contract labour shall not be employed on any job of permanent and perennial nature which jobs includes

the job of General Mazdoor. As per N.C.W.A. it was further agreed upon that jobs of permanent and perennial nature which include jobs of general mazdoors will continue to be done by regular employees.

5. They submitted that under the certified standing order of CMPDI the entire workmen are required to be classified as per provisions of S.O. No. 3 and its sub-clauses, under which a casual workman is a workman engaged for work which is purely intermittent or sporadic or casual nature not extending beyond a maximum of three months and a permanent workman is one who is employed on job of permanent in nature, which included the job of general mazdoor for a period of atleast six months. They disclosed that the certified standing order having the statutory force, the workmen concerned employed on jobs of general mazdoors from respective date of engagement which are permanent in nature but taking advantage of their extreme poverty, social and economic disability they exploited their services which not only constitute deliberate breach of the Standing Orders but also is to be considered as unfair labour practice and discrimination. They submitted that employment in CMPDI being public employment, its protection and safe guards are guaranteed under Article 14, 16 and 21 of the Constitution of India and for which they cannot be deprived of their legitimate claim. Accordingly the action of the management in not regularising the workmen concerned involving deprivation of the restrictions on inherent fundamental rights of workmen concerned is fanciful and oppressive which cannot be sustained in law and on facts. They alleged that after engagement of the concerned workmen as casual workers the management never paid their wages as per N.C.W.A. They further alleged that non-regularisation of workmen concerned as general mazdoors is arbitrary discriminative and is a violation to the principle of natural justice. They submitted that the workmen are legally entitled to be regularised with retrospective effect in Cat. I as per NCWA with effect from the date of their engagement. Accordingly they submitted prayer to pass award directing the management to regularise the service of the concerned workmen with effect from the date of their respective engagement as general mazdoor in Cat. I with all consequential benefits.

6. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workmen.

They categorically denied the fact that the concerned workmen were ever employed by them as general mazdoor in Cat. I. Actually they were engaged purely on contractual basis for supply of water and other miscellaneous work such as loading and unloading of materials, road repairing etc. as and when occasion arose. They submitted that drilling camps are temporary establishment. Normally these drilling camps are conducted at remote places in various

parts of the country for short duration. They further submitted that for operation of Drilling camp, they deploy skilled, experienced and qualified employees from amongst the permanent manpower strength which are usually taken from the earlier camp where drilling operations are over and camp is wound up. They submitted further that while transferring the employees of permanent capacity from the earlier camp to the new camp, a sincere care is taken for those casuals who were deployed in earlier camp for their placement in the newly established camp.

7. They submitted that in the camps at times occasion arises when work on very temporary nature comes up intermittently which the management is not able to cope up with existing manpower available at source. It is also not possible to deploy the manpower from other sources due to sudden and intermittent nature of job. In that circumstances there is no alternative left with them except to engage some hands on contractual rate of remuneration depending on the volume of work.

8. They submitted that in the instant case the concerned workmen were engaged absolutely on contractual basis as and when occasion arose on payment of contractual rates of remuneration depending on the volume of work and also on leave and sick vacancy. They disclosed that as the concerned workmen were deployed on contractual basis no relationship of employer and employee ever grew up. They categorically denied the fact that the concerned workmen were ever their employees. They disclosed that the certified standing order as applicable to CMPDI has no room to give place to the workmen deployed on contractual basis. They submitted that as CMPDI is a Govt. company within the meaning of Sec. 617 of the Company's Act has to abide by the provisions of recruitment rules for recruitment of employees. They submitted further that the work in question was neither permanent nor perennial nature for which the concerned workmen were engaged on contractual basis. They alleged that the sponsoring Union's demand for regularisation of the concerned workmen as general mazdoor in Cat. I finds no basis and for which they submitted that the claim in question is liable to be rejected.

9. Points to be decided in this reference are :—

“Whether the action of the management of M/s. Central Mine Planning and Design Institute Ltd., Ranchi is justified in not regularising the services of the workmen S/Shri Nilkanth Kumbhkar, Gopal Gope, Karamchand Gope, Wakil Gope, Devi Dayal Singh, Sarju Kumar Upadhyaya, Ghopal Gope and Dilip Gope who are alleged to have been employed from 7-3-1988, 1-10-80, 1-1-89, 14-1-89, 15-2-89, 8-4-89, 1-8-89 and 9-9-89 respectively as General mazdoor Cat. I? If not, to what relief these workmen are entitled and from what date?”

FINDING WITH REASONS

10. It appears from the record that in course of hearing neither the sponsoring union nor the workmen appeared to adduce either oral or documentary evidence in order to substantiate their claim in question. In the circumstances management did not adduce evidence to counteract the claim of the sponsoring union.

11. As no material paper is forthcoming before this Tribunal on the part of the sponsoring union inspite of giving sufficient opportunities let me consider relying on the pleadings of both sides if the concerned workmen are entitled to get any relief or not.

12. It is the claim of the sponsoring union that the concerned workmen were employed as general mazdoor under Cat. I of NCWA by the management at Probatpur Drilling camp during the period from March, 1988 to August, 1989. They submitted that inspite of rendering continuous service the management denied to regularise their service in Cat. I Mazdoor. They submitted that the jobs which the concerned workmen performed were permanent and perenial in nature. The sponsoring union simultaneously submitted that even if it is assumed that the concerned workmen were engaged as contract labour to perform the jobs of general mazdoors, they cannot be legally deprived of the wages, service conditions, hours of work, benefits and facilities of general mazdoor in Cat. I. They referring the provision of Standing Order No. 3 and its sub-clauses submitted that casual workmen is a workman engaged for work which is purely intermittently in nature or of casual nature not extending beyond a maximum of three months and a permanent workman is one who is employed on a job of permanent nature which include the job of general mazdoor for a period of at least six months. The certified Standing order having the statutory force the workmen concerned employed on jobs of general mazdoors from the respective dates of engagement are to be considered as permanent workmen and for which they deserve their regularisation.

13. Management on the contrary categorically denied the fact of employment of the concerned workmen as general mazdoor. They submitted that the concerned workmen were engaged on contractual basis to carry on certain jobs which were absolutely intermittent in nature and wages were paid to him as per the nature of job performed by them intermittently. They submitted that under which circumstances in the drilling camp they are to engage workmen on contractual jobs of intermittent in nature. They also categorically denied the fact that the contractual jobs which the concerned workmen intermittently performed were neither permanent nor perenial in nature. Accordingly question of their regularisation did not arise.

14. Considering the facts disclosed in the pleadings of both sides it transpires that the sponsoring union have

made two cold claim in respect of the status of the concerned workmen i.e. initially they claimed that management employed the concerned workmen as general mazdoor in Cat. I and thereafter they claimed that even if the concerned workmen are considered as contract labour they deserve their regularisation as general mazdoor as they performed the job of permanent and perenial in nature. Considering the record I have failed to find out a single scrap of paper on the part of the sponsoring union to show that the concerned workmen were employed by the management as general mazdoor in Cat. I. Until and unless this claim is established by the sponsoring union there is no scope to uphold the same. Therefore in no circumstances there is scope to say that the concerned workmen were employed by the management as general mazdoor in Cat. I.

15. It has been admitted by the management that the concerned workmen were engaged to perform some contractual job in the drilling camp which could not be taken up by their permanent workmen. They disclosed that the said job absolutely was intermittent in nature and was not within prohibited category. On the contrary the claim of the sponsoring union is that the concerned workmen performed job of permanent and perenial in nature. In support of this claim the sponsoring union also have failed to produce any cogent evidence. Management submitted that drilling camp is opened at remote places of the country and the job undertaken in the said drilling camp is absolutely temporary in nature. They further submitted that operation in the drilling camp are conducted by skilled and experienced workmen of the management. Accordingly question of employing the concerned workmen as general mazdoor ignoring the recruitment rules did not arise. As some works in the drilling camp sometimes comes up which are absolutely intermittent in nature perform the same some workmen are ehgaged on contractual basis and wages also are given to them as per nature of his work. To rebut this claim the sponsoring union have failed to produce any cogent evidence.

16. Just relying on the facts disclosed in the pleading there is no scope to give any relief. Facts disclosed in the pleading cannot be considered as substantive piece of evidence. Until and unless it is well substantiated by cogent evidence. Accordingly, relying on the facts disclosed in the written staement of the concerned workmen I find no scope to uphold their claim and for which they are not entitled to get any relief.

In the result, the following award is rendered :—

“The action of the management of M/s. Central Mine Planning and Design Institute Ltd., Ranchi is justified in not regularising the services of the workmen S/Shri Nilkant Kumbhkar, Gopal Gope, Karamchand Gope Wakil Gope, Devi Dayal Singh, Sarju Kumar Upadhyay, Ghopal Gope and Dilip Gope who are alleged to have been employed from

7-3-1988, 1-1-80, 1-1-89, 14-1-89, 15-2-89, 8-4-89, 1-8-89 and 9-9-89 respectively as General Mazdoor Cat. I. Consequently, the concerned workmen are not entitled to get any relief."

B. BISWAS, Presiding Officer.

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2733.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 3/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-03 को प्राप्त हुआ था।

[सं. एल-20012/409/95-आई.आर.(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S. O. 2733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 3/97) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/409/95-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT

SHRI B. BISWAS,

Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 3 of 1997

PARTIES : Employers in relation to the management
of M/s. B.C.C.L. Bowra Area and their
Workmen.

APPEARANCES :

On behalf of the Workman : Shri S.N. Goswami,
Advocate

On behalf of the Employers : Shri D.K. Verma,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 12th August, 2003

AWARD

The Government of India, Ministry of Labour, in
exercise of the powers conferred on them under Section

10(1)(d) of the I.D. Act, 1947 has referred the following
dispute to this Tribunal for adjudication vide their Order
No. L-20012(409)/95-IR(C-I), dated the 2nd January, 1997.

SCHEDULE

"Whether the action of the management of Bhowra
Area of M/s. B.C.C.L. in dismissing Shri Ram Brich
Dusadha DCL from the services of the Company is
justified? If not, to what relief is the concerned
workman entitled?"

2. The case of the concerned workman according to
the Written Statement submitted by him in brief is as
follows:—

Concerned workman submitted that he was a
permanent Miner/Loader D.C.L. of Bhowra (N) U.G. Mines
under the management of 7/10 incline. His Identity card
No. was 162410. He submitted that during the course of
his employment due to coal dust hazards he became T.B.
patient and for which he had to remain under treatment in
the hospital of the management and at Central Hospital,
Dhanbad for a long period. Thereafter as per advise and
recommendation of the Medical Officer, management
provided him light duty as S.L. Mazdoor Cat. I. till 25-2-92.
He disclosed that thereafter he submitted his prayer before
the management in writing to provide light job on the
surface for a further period in view of his recovery from
T.B. but the management did not give any importance to
his prayer and they stopped his duty from light job. He
disclosed that he appeared before Apex Medical Board for
his disability and loss of earning capacity. But the
management did not intimate him about the report of the
said Medical Board. He alleged that management neither
communicate him the medical report nor allowed him to
perform light duty and thereby deprived him from his
livelihood by way of victimisation and for which he had to
raise Industrial Dispute through sponsoring Union for
conciliation which ultimately resulted reference to this
Tribunal. He submitted that during pendency of the hearing
of conciliation proceeding management issued a
chargesheet to him for committing misconduct on the
ground of absentism illegally, arbitrarily and violating the
principle of natural justice. He submitted that management
was very much aware of his remaining himself on prolong
treatment as T.B. patient. They also provided light job to
him till 25-2-92 but considering his physical instability due
to weak health as it was difficult for him to perform his
original job as D.C.L. management with effect from 26-2-92
suspended and stopped him to perform his job. He
disclosed that he remained present althrough at the place
of his duty and it was very much within the knowledge of
the management and for which he alleged that they issued
the chargesheet to him purposefully and with ill motive. He
alleged that management knowing fully well of his ill health

and his incapacity to perform his original job dismissed him from service.

Accordingly he submitted his prayer to pass award directing the management to reinstate him in service with back wages and other consequential relief.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement. They submitted that the concerned workman was a piece rated Drill coal loader and approached them to provide light duty on the surface contending that he was suffering from T.B. and was unable to perform his normal duties. They submitted that in view of his prayer and considering recommendation of the medical officer they provided him light duty. Thereafter when the concerned workman was declared medically fit to resume his normal duties he was advised to report for his original job as it was not practical to provide him light duties on regular basis for the entire service period. They alleged that instead of joining his normal duties he started himself absenting from duty with effect from 26-2-92 as a result they were compelled to issue charge sheet dt. 26/2-5-92 against the concerned workman for committing misconduct on the ground of absentism. Against that charge-sheet he submitted his reply dt. 4-6-92 taking the plea that as he was not allowed to perform light duty he was compelled to remain himself absent from duties and for which he denied the allegation for committing any misconduct.

4. They submitted that as the reply given by the concerned workman was not satisfactory they decided to hold domestic enquiry against him and for which R.G. Ram, P.O. was appointed as Enquiry Officer. Thereafter the said domestic enquiry was conducted by the E.O. in presence of the concerned workman and after completion of enquiry he submitted his report holding the concerned workman guilty to the charges brought against him and thereafter he was dismissed from his service. They categorically denied the fact that they committed any illegality or took any arbitrary decision in dismissing the concerned workman from service. Accordingly they submitted prayer to pass award rejecting the claim of the concerned workman.

5. Points to be decided in this reference are :—

“Whether the action of the management of Bhowra Area of M/s. B.C.C.L. in dismissing Shri Ram Brich Dusadh, DCL from the services of the company is justified? If not, to what relief is the concerned workman entitled?”

DECISION WITH REASONS

6. It appears from the record that before hearing the instant case on merit hearing was taken up to consider if the domestic enquiry held against the concerned workman by the Enquiry Officer in view of charge-sheet issued

against him by the Disciplinary authority was fair, proper and in accordance with the principle of natural justice. Accordingly at this stage it is needless to discuss this issue to arrive into conclusion it is to be looked into if the charge which was brought against the concerned workman was well been established or not. It is further to be looked into if the concerned workman is entitled to get any relief under Section 1 I-A of the I.D. Act in view of order of dismissal passed against him by the Disciplinary authority accepting the report submitted by the Enquiry Officer.

7. It transpires from the record that the Disciplinary Authority issued charge-sheet to the concerned workman for committing misconduct on the ground of violation of clause 26.1.1 and 26.1.10 of the Standing Order applicable to the workmen of the management. The charge is as follows :—

“It has been reported that you are absenting from your duty with effect from 26-2-92 without any information and permission from the management.

Your above act amounts to misconduct under the Certified Standing Orders for workmen of establishment under B.C.C.L. (Dhanbad) which are as under :—

26.1.1 — Habitual late attendance or wilful or habitual absence from duty without sufficient cause.

26.1.10 — Habitual indiscipline or wilful insubordination or disobedience of any lawful or reasonable order of higher authority.

You are hereby asked to explain in writing within 48 hours from the receipt of this charge-sheet as to why disciplinary action should not be taken against you.”

The charge-sheet during hearing on preliminary point was marked as Ext. M-1 while reply given by the concerned workman to the charge-sheet was marked as Ext. M-2. The report of the Enquiry Officer and the order of dismissal issued against the concerned workman also were marked as Ext. M-6 and M-8 respectively.

8. Considering the facts disclosed in the pleadings of both sides and also considering materials on record I find no dispute to hold that the concerned workman was a Drill Coal Loader under the management. It also transpires clearly that the concerned workman fell seriously ill being a T.B. patient while he was in service. It is the contention of the workman that due to constant inhaling of coal dust at the time of his work in the mine he was attacked by T.B. and for which he had to undergo treatment initially at colliery hospital and thereafter at Central Hospital, Dhanbad. In para 18 of the written statement-cum-rejoinder

submitted by the management, it transpires that the concerned workman was medically fit to perform his original duty after suffering from some minor ailments which was cured by proper treatment provided to him by them. They further submitted that though the concerned workman was not recommended for light duty he was provided light duty during 1989, 1990 and 1991 with a view to get himself cured fully to perform his normal duties. Considering this submission it cannot be assessed if the concerned workman was suffering from T.B. or not. Management did not disclose relying on any medical papers actually what was the ailment the concerned workman was suffering from. It is not expected that for minor ailment a workman should get the privilege to perform light duties for three years continuously. Facts disclosed in para 5 is self-contradictory to the statement given in para 18 of the written statement-cum-rejoinder. From para 5 of the written statement it transpires clearly that as the concerned workman was T.B. patient he was provided light duty for 213 days during 1991. They submitted that the concerned workman was asked to resume his normal duties as he was declared medically fit for doing such job.

9. Actual dispute crops up when according to the management the concerned workman refusing to comply that direction started absenting from duty with effect from 26-2-92. On the contrary a different picture comes in from the version of the concerned workman. In para 3 of the written statement filed by the concerned workman it transpires that he was provided light duty as S.L. Mazdoor Cat. I till 25-2-92. Thereafter he submitted prayer in writing for further extension of his light duty as S.F. Mazdoor during the period of his further treatment but as the management refused to consider his prayer he raised an industrial dispute for his regularisation in the post of S.F. Mazdoor. The industrial dispute which was raised by the concerned workman is not subject-matter of the instant reference case. However, it has been exposed from the submission of both sides that the concerned workman remained under treatment as T.B. patient for a long period and during that period he was provided with light job. The charge-sheet was issued by the management with the allegation that he remained himself absent from duty with effect from 26-2-92 without prior intimation and permission. Concerned workman submitted his reply to the charge-sheet Ext. M-2 wherein he disclosed that it was the management who did not allow him to perform his duty with effect from 26-2-92 though he was very much willing to perform his duty. The concerned workman in course of enquiry proceeding admitted that on 26-2-92 he was directed by ACM to perform his duty at 7/10 incline in the 2nd shift but owing to his illness he could not perform his duty. From the enquiry report it transpires further that the concerned workman submitted photo copy of the minutes of discussion with area office held on 10-11-90 in which CGM agreed to provide light duty to the concerned workman as he was a T. B. patient.

10. It transpires that the concerned workman started remaining himself absent from duty with effect from 26-2-92 when he was directed to work at 7/10 incline. It is seen that thereafter the concerned workman did not attend to his duty and for which management issued charge-sheet to him and started domestic enquiry against him. In course of that enquiry the concerned workman could not produce any evidence to establish that he attended his place of duty on 26-2-92 but management did not allow him to perform the same and for which I find no scope to accept his contention. On the contrary during domestic enquiry he admitted that he remained himself absent from duty as the management refused to provide light duty knowing fully well of the fact that he was a T.B. patient.

11. Management has brought two fold charges against the concerned workman. The first charge was in relation to his wilful or habitual absence from duty without sufficient cause and the second charge was that he was habitual Indiscipline or wilful insubordination or disobedience of any lawful or reasonable order of higher authority.

12. I have carefully considered all material papers of the domestic enquiry proceeding to consider if the management have been able to substantiate the second charge brought against the concerned workman. Excepting the allegation brought against him the management have failed to produce any authentic paper to establish the act of insubordination of the concerned workman. I have failed to understand how in absence of cogent evidence the enquiry officer found him guilty as per charge No. 2. It transpires that Project Officer recommended for dismissal of the concerned workman from service in the note sheet prepared by him (Ext. M-7) on the ground of unauthorised absence and not for his act of insubordination. Thereafter, G.M. approved the recommendation for dismissal of the concerned workman from service as per charge No. 1 and accordingly order of dismissal was issued (Ext. M-8). It is therefore, clear that the concerned workman was dismissed from service for committing misconduct on the ground of absentism.

13. Considering the statement of the concerned workman and also considering all materials on record it has been established clearly that since 26-2-92 the concerned workman remained himself absent unauthorisedly and if this fact is considered there is reason to believe that charge No. 1 has been established against the concerned workman.

14. Now the point for consideration is if the punishment imposed upon the concerned workman can be reviewed as per provision laid down under Section 11A of the I.D. Act.

15. It is seen that the concerned workman for performing his hazardous job in the mine became a T.B. patient. It is seen that at the intervention of the union

management agreed to provide light job to him and for which he was given light job for some period and on 26-2-92 he was directed to work at 7/10 incline. The concerned workman declined to do such job as he was not recovered fully and for which he was forced to remain himself absent from duty as the management refused to give him light duty further.

16. The concerned workman became victim for the nature of job performed by him. The ailment from which he was suffering from was no doubt very serious in nature and one of the condition for getting relief from such ailment is to take complete rest apart from medicine and diet. It transpires that instead of allowing the concerned workman to give him complete rest he was provided with light duty i.e. he was compelled to attend his duty inspite of seriousness of his ailment he was suffering from. No cogent paper is forthcoming if before providing heavy duty in the mine management was satisfied that he was completely fit to undertake such duty particularly when it was claimed that he was still under treatment and unable to perform his normal duty for his ill health. It is fact that as management refused to provide duty further he was compelled to remain himself absent. Therefore such absence in any circumstances cannot be said to be willful in nature. Actually he was compelled to take such step with a view to save his life. Management have failed to establish that the concerned workman was in the habit of remaining himself absent. Accordingly, humanitarian aspect equally is to be looked into with much importance in the instant case. It is not expected that relationship of the employer and employee should be exclusively confined to the relationship of master and servant. The employer cannot overlook the welfare matter of the workers. In the instant case the concerned workman was a T.B. patient and he failed only to perform the job of the management. As such in the instant case more sympathetic view was expected from the management. It is seen that instead of giving complete rest they provided light duty to him with a view to get service from a T.B. patient which appears to me absolutely an act amounts to violation of the principle of natural justice.

17. Apart from this fact it is seen that the concerned workman was given 48 hours time to submit reply to the chargesheet issued to him. Clause 27.1 of the certified Standing Order speaks as follows :—

“MINOR PENALTY : Where a workman is charged with a misconduct which may lead to imposition of a minor penalty, he shall be informed in writing of the allegations made against him and shall be given an opportunity to explain his conduct within 48 hours. His explanation, if any, shall be considered before imposing a minor penalty by the Disciplinary Authority. Provided, however, that where a workman denies the charges alleged against him, no punishment shall be imposed upon unless a domestic enquiry has been conducted.”

Management issued chargesheet for committing misconduct by the concerned workman on the ground of absentism under clause 26.1 and clause 26.1.10 of the certified S.O. I have already discussed above that the management have failed to establish the charge of misconduct brought under clause 26.1.10 of the certified Standing Order against the concerned workman. My discussion above has exposed clearly that the concerned workman remained himself absent from duty without giving prior intimation to the management. Management have given 48 hours time to submit reply to the chargesheet by the concerned workman. If clause 27.1 of the Certified Standing Order is taken into consideration there is sufficient reason to believe that management had intention to inflict minor punishment to the concerned workman. Had that not been so the management definitely would direct to submit his explanation within a period of 7 days as per clause 27.2 of the Certified Standing Order. In spite of issuance of chargesheet and directing the concerned workman to submit explanation within 48 hours the management ignoring the concept of that provision under clause 27.1 dismissed him from service which I should consider is complete violation of the direct given therein.

18. Considering the facts and circumstances discussed above I hold that the punishment of dismissal inflicted upon the concerned workman appears to be disproportionate in relation to the offence committed by him. Accordingly I hold that for the interest of justice lenient view is to be taken against the concerned workman in the matter of punishment inflicted upon him.

19. Accordingly I hold that the concerned workman is entitled to get relief under Section 11A of the I.D. Act. Otherwise I think injustice will be done against him. The concerned workman is out of service since issuance of the order of dismissal dt. 16/20.6.94. In the circumstances, the order of dismissal is set aside and direction is given to the management to reinstate him in service without any back wages. However, he will get the continuity of service.

In the result, the following Award is rendered :—

“The action of the management of Bhowra Area of M/s. B.C.C.L. in dismissing Shri Ram Brich Dusadh DCL from the services of the Company is not justified. Consequently, he is entitled to reinstatement without any back wages but with continuity of service.”

The management is directed to implement the Award within 3 months from the date of publication of the Award in the Gazette of India.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का.आ. 2734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि.

के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 90/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2003 को प्राप्त हुआ था।

[सं. एल-20012/293/92-आईआर(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S. O. 2734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/93) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/293/92-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 90 OF 1993

PARTIES: Employers in relation to the
management of Bhowra (N) Colliery of
M/s. BCCL and their workman.

APPEARANCES :

On behalf of the Workman : None

On behalf of the Employers : Shri H. Nath,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 18th August, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (293)/92 I.R. Coal-I, dated, the 9th July, 1993.

SCHEDULE

"Whether the action of the management of abandonment of service of Shri Bhatu Manjhi, D.C.

Loader of Bhowra (N) Colliery under Bhowra Area of M/s. BCCL w.e.f. 9-5-86 is justified? If not, to what relief the workman is entitled?"

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows :—

They submitted that the concerned workman was employed as permanent miner/loader at Bhowra Colliery before its nationalisation by its erstwhile owner. They submitted that after nationalisation of the said colliery the concerned workman was assigned to perform duty as D.C. Loader by The management and he worked in that capacity till 15-10-80. They submitted that on 15-10-80 after his duty while the concerned workman was returning back to house on the way he was attacked by some miscreants and was brutally assaulted by them for which he sustained serious injuries to his persons and had to remain under treatment from 16-10-80 to 20-2-81. After recovery when he came to his place of work with a view to resume his duty management did not allow him to join and detained him idle without allotting any work. They submitted that inspite of submitting several representations the management did not pay any attention to his prayer. On the contrary they by issuing letter bearing No. PS/88(N)/WG Mines/GC/192 dt. 26-2-88 directed him to collect gratuity and other financial benefits and dues if any declaring him "abandoned employment" illegally, arbitrarily and violating the principal of natural justice. He categorically denied the fact of abandonments of his service. He alleged that management before issuance of that order neither issued any chargesheet, commenced any enquiry nor issued any notice to him under Section 25F of the I.D. Act. He submitted that as a result of assault he was seriously injured and remained under treatment and for which it was beyond his control to attend his duties. They submitted that as the management knowing fully well of all the facts and circumstances did not pay any heed to the representation of the concerned workman, he raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication. Concerned workman accordingly, submitted his prayer to pass award directing the management to reinstate him in service with back wages.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement filed on behalf of the concerned workman. They submitted that the concerned workman worked till Sept., 1980 and his attendance was found to be only 17 days as per bonus register in the quarter ending September, 1980. Thereafter he did neither report for his duty nor informed the management about his absence. Accordingly vide letter dt. 16-2-88 they asked the concerned workman to collect his dues and claims as he has abandoned his service. They submitted that they did neither commit any

illegality nor took any arbitrary decision about declaring the concerned workman "Abandoned service" with effect from 9-5-86. Accordingly they submitted their prayer to pass award rejecting the claim of the concerned workman which he placed through his sponsoring union.

4. Points to be decided in this reference are :—

"Whether the action of the management of abandonment of service of Shri Bhatu Manjhi, D.C. Loader of Bhowra (N) colliery under Bhowra Area of M/s. BCCL w.e.f. 9-5-86 is justified? If not, to what relief the workman is entitled?"

FINDING WITH REASONS

5. It transpires from the record that inspite of giving several opportunities neither the concerned workman nor his sponsoring union has come forward to substantiate their claim against the management. As they have failed to come forward the management also declined to adduce any evidence. Neither any oral nor any documentary evidence is forthcoming to consider if the claim of the concerned workman finds any substantial footing or not.

6. Considering the pleading of the concerned workman it transpires that on 15-10-80 after performing his duty while he was returning back to his home on the way he was detached by some miscreants and they assaulted him seriously for which he sustained serious injury to his persons and consequent to that he could not attend his place of duty on 16-10-80. He submitted that for his treatment he remained absent from 16-10-80 to 20-2-81 and thereafter when he came to his place of work with a view to resume his duty he was retained from doing so and kept him idle. He made representation to the management in this regard but to no effect. On the contrary taking the plea of abandonment of service management issued a letter bearing No. PS/88(N)/U.G. Mines/GC/192 dt. 26-2-88 directing him to collect his gratuity and other dues from them.

7. It is the specific allegation of the concerned workman that before issuance of such letter management neither issued any chargesheet nor held any domestic enquiry against him. They also did not issue any notice under Section 25F of the I.D. Act before terminating his service. Accordingly such order issued by the management was not only illegal and arbitrarily but also it violated the principle of natural justice.

8. Considering the pleadings of both sides there is no dispute to hold that the concerned workman was D. C. Loader of Bhowra North Colliery. It is the specific contention of the management that the concerned workman since Sept. 1980 has abandoned his service and did not turn up thereafter. He also did not consider necessary to inform the reasons of his absence. They submitted that as continuously for more than six years the concerned workman did no report for his duty it was considered that

he has abandoned his service and for which his name was struck off from the roll of the company and thereafter vide letter No. PS/88(N)/UG Mines/GC/192 dt. 16-2-88 he was asked to collect his gratuity etc. Considering the facts submitted by the management it transpires that they neither retrenched the concerned workman nor dismissed him from service.

9. It is the specific contention of the workman that from 16-10-80 to 20-2-81 he remained absent from duty on the ground of his treatment as he sustained serious injuries to his person as a result of assault by some miscreants on 15-10-80. In support of his claim the concerned workman has failed to produce a single medical paper. No satisfactory explanation is also forthcoming why he did not intimate this fact to the management. He also has failed to produce a single scrap of paper to show that he submitted representations to the management while they refused him to join his duty. On the contrary from the contention of the management it transpires that the concerned workman was not remained absent from duty from 16-10-80 to 20-2-81 but he continuously was untraced till May, 1986 i.e. more than six years. To rebut the claim the concerned workman did not consider necessary to adduce any evidence. It is not expected that a workman in the matter of attending his duties at his whims. Every workman shall be liable to abide by not only the discipline but also some rules and regulations for the interest of production as well as administration of the company. The conduct of the workman if looked into will expose clearly that he without carrying anything moved and remained on absent as of right for years together. If the provisions as laid down in Cl. 17.8 of the certified standing order is taken into consideration there is sufficient scope to say that the concerned workman has lost his lien on his appointment. Therefore, onus on the concerned workman to establish that management committed illegality by issuing letter dt. 16-2-88 which has already been referred to above. He remained absent from duty for more than six years keeping the management completely in the darkness. Onus absolutely reason the concerned workman to establish that he did not abandon his service but I find no hesitation to say that in this regard he has failed to adduce any evidence. It should be taken into consideration that facts disclosed in the pleadings cannot be considered as substantive piece of evidence without its corroboration by consent evidence. Concerned workman no doubt has brought some allegations against the management but making such allegations if so fact does not establish his claim without proof. Record shows that sufficient opportunities had been given to the concerned workman to establish his claim but has failed to do so. Accordingly after careful consideration of all the facts and circumstances I hold no merit in the claim of the concerned workman, in absence of cogent evidence and for which he is not entitled to get any relief.

In the result, the following award is rendered :—

“The action of the management of abandonment of service of Shri Bhatu Manjhi, D.C. Loader of Bhowra (N) Colliery under Bhowra Area of M/s. BCCL w.e.f 9-5-86 is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2735. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 37/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-03 को प्राप्त हुआ था।

[सं. एल-20012/149/90-आईआर(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 28th August, 2003

S. O. 2735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/90) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/149/90-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

SHRI B. BISWAS,

Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 37 of 1990

PARTIES: Employers in relation to the management of
Jealgora Colliery of M/s. BCCL and their
workman.

APPEARANCES:

On behalf of the Workman : Shri K. Chakravorty,
Advocate.

On behalf of the Employers : Shri D.K. Verma,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 18th August, 2003

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/149/90-IR (C-I), dated, the 16th November, 1990.

SCHEDULE

“Whether the action of the management of Jealgora Colliery of M/s. BCCL, P.O. Jealgora, Dt. Dhanbad in Not giving Cat. V w.e.f. 1977 and Cat. VI w.e.f. 1980 with all arrears of wages and consequential benefits to Md. Hamid, Mechanical Fitter is justified? If not, to what relief the workman is entitled?”

2. The case of the concerned workman according to W. S. submitted by the sponsoring union on behalf of the concerned workman brief is as follows :—

The sponsoring Union in the said written statement disclosed that the concerned workman was originally appointed as Mechanical Helper and then promoted to the post of Mechanical Fitter in Cat. IV in the year 1977 and was promoted in Cat. V in the year 1980 and in the year 1990 in Cat. VI under Service Linked Upgradation scheme. They submitted that as per the Wage Board Recommendation initial starting Category of Mechanical Fitter is under Cat. V but the management violating that instruction of NCWA illegally and arbitrarily placed him in Cat. IV and for this act of the management the concerned workman not only was deprived of getting his promotion prior to the date of his getting promotion in Cat. V in the year 1980 but also sustained financial loss. They submitted that in the year 1977 the concerned workman ought to have been placed in Cat. V on promotion and accordingly he was entitled to get his promotion in cat VI in the year 1980. They disclosed that the concerned workman submitted representation to the management on several occasions with prayer for review of promotional order but the management did not do any justice to him and for which he raised an Industrial Dispute before the ALC (C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication. The concerned workman accordingly submitted his prayer to pass award to place him in Cat. V in the year 1977 and in Cat. VI in the year 1980 with all arrears of wages and other consequential benefits.

3. The management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegation which the sponsoring union asserted in their W.S. submitted on behalf of the concerned workman. Management submitted that the concerned workman belonged to E & M Cadre and as per provision of Wage Board recommendation as well as cadre scheme formulated by JBCCI a Helper in Cat. II

can promoted as Fitter in Cat. IV and thereafter in Cat. V and Cat. VI on the recommendation of the D.P.C. duly constituted by the competent authority to fill up vacancy on higher categories. They submitted that as the concerned workman belonged to E&M Cadre as per provision of Wage Board Recommendation he was promoted to Cat. IV in the year 1977 as Mechanical Fitter from the post of Mechanical Helper and was promoted to Cat. V on the basis of the recommendation of D.P.C. from Category IV in the year 1980. The concerned workman was upgraded to Cat. VI as per provision of NCWA under Service Linked Upgradation scheme. They further submitted that promotion to any workman is the function of the management and one can not claim promotion as a matter of right. The concerned workman was given promotion according to the policy of the management from time to time and after considering his suitability and satisfactory performance. He was promoted in Cat. IV in the year 1977 and thereafter he got his promotion in Cat. V in the year 1980 but the concerned workman till 1990 did not raise any dispute in the matter of his alleged and arbitrary promotion. They submitted that they did not commit any illegality or took any arbitrary decision in giving promotion to the concerned workman in Cat. IV instead of Cat. V in the year 1977. Accordingly management made his prayer to pass an Award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are:—

"Whether the action of the management of Jealgora Colliery of M/s. BCCL, P.O. Jealgora, Dt. Dhanbad in not giving Cat. V w.e.f. 1977 and Cat. VI w.e.f. 1980 with all arrears of wages and consequential benefits to Md. Hamid, Mechanical Fitter is justified? If not, to what relief the workman is entitled?"

FINDING WITH REASONS

5. It transpires from the record that neither the concerned workman nor the management examined any witness in order to substantiate their respective claim. The concerned workman also did not consider necessary to submit any material paper with a view to justify his claim. Accordingly let me consider relying on the facts disclosed in the pleading of both sides if the concerned workman is entitled to get any relief or not. It is admitted fact that the concerned workman was Mechanical Helper under the management. It is also admitted fact that the concerned workman got his promotion in Cat. IV in the year 1977. The contention of the concerned workman is that as per N.C.W.A. promotion to Mechanical Fitter in Cat. V and not in Cat. IV and accordingly the management by taking their arbitrary decision gave him promotion as Mechanical Fitter in Cat. IV in the year 1977. On the contrary the management submitted that the concerned workman belonged to E&M cadre and as

per provision of Wage Board Recommendation as well as cadre scheme formulated by JBCCI a Helper in Cat. II can promoted as Fitter in Cat. IV and for which they did not take illegal or arbitrary decision in promoting the concerned workman as Mechanical Fitter in Cat. IV in the year 1977. They submitted further that in the year 1980 the concerned workman got his promotion in Cat. V as per recommendation of D.P.C. and there after as no vacancy existed the concerned workman was upgraded in Cat. VI under Service Linked Upgradation Scheme in the year 1990. They further submitted that from 1977 to 1990 the concerned workman did not raise any dispute in the matter of his promotion in Cat. IV initially. On the contrary the sponsoring union submitted that since getting his promotion in Cat. IV in the year 1977 the concerned workman submitted representation on several occasions to modify his order and to place him in Cat. V but the management did not give any importance to that representation. In course of hearing the concerned workman has failed to submit a single scrap of paper to show that he submitted any representation to the management in this regard. No satisfactory explanation is forthcoming why he made long delay of 13 years to raise dispute in this regard particularly when it is seen during this period he was not only promoted in Cat. V but also he was given the wages of Cat. VI as per Service Linked Upgradation Scheme. It is the specific contention of the management as the concerned workman belonged to E&M cadre as per the provision of Wage Board recommendation as well as the cadre scheme formulated by JBCCI a Helper in Cat. II can be promoted to as Fitter in Cat. IV and accordingly his promotion was given in Cat. IV in the year 1977. To rebut this claim the concerned workman has failed to produce any material paper. The concerned workman has claimed his placement in Cat. V with effect from 1977. Accordingly, onus on him to establish that as promotion from the post of Mechanical Helper he was entitled to the post of Mechanical Fitter should be placed in Cat. V and not in Cat. IV.

6. Facts disclosed in the pleadings cannot be considered as substantive piece of evidence until and unless the same is substantiated by corroborative evidence. It is seen that ample opportunity had been given to the concerned workman to adduce material evidence in support of his claim but he has failed to avail the said opportunity. Accordingly relying on the facts disclosed in the pleadings I find no scope to say that the claim of the concerned workman stands on cogent footing and that he is entitled to get any relief to that effect. I, therefore, hold that as the concerned workman has failed to substantiate his claim by adducing material evidence he is not entitled to get any relief. In the result, the following Award is rendered:—

"The action of the management of Jealgora Colliery of M/s. BCCL, P.O. Jealgora, Dt. Dhanbad in not giving Cat. V. w.e.f. 1977 w.e.f. 1980 with all arrears of wages and consequential benefits to Md. Hamid, Mechanical Fitter is justified. Consequently, the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer.

नई दिल्ली, 28 अगस्त, 2003

का. आ. 2736.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा०को०को० लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 64/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2003 को प्राप्त हुआ था।

[सं. एल-20012/24/97-आईआर(सी-I)]

एस. एस. गुप्ता, अवसर सचिव

New Delhi, the 28th August, 2003

S.O. 2736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/98) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 27-8-2003.

[No. L-20012/24/97-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

SHRI B. BISWAS,

Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 64 OF 1998

PARTIES: Employers in relation to the management of M/s. B.C.C.L. and their Workman.

APPEARANCES:

On behalf of the Workman : Shri S. N. Ganguly,
Advocate.

On behalf of the Employers : Shri B. M. Prasad,
Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 18th August, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/24/97-IR (Coal-I), dated, the 12th March, 1998.

SCHEDULE

"Whether the action of the management of Bhowra OCP of M/s. BCCL in superannuating Shri Sheonath Bari, Mechanical Fitter and denying the benefits of NCWA, Clause 9.4.3 is justified? If not, to what relief the concerned workman is entitled?"

2. The case of the concerned workman according to written statement submitted by him in brief is as follows :—

He submitted that he was a permanent Mechanical Fitter at Bhowra O.C.P. under the management. He submitted that in course of rendering service to the management he felt seriously ill from incurable disease apart from his serious eye trouble and for which with ill health he was not in a position to discharge his duties properly. He submitted that he was under treatment at Bhowra Hospital, Jealgora Central Hospital as well as at Central Hospital, Dhanbad. He submitted that due to his physical incapability to discharge his normal duties he submitted application to the management for his medical test by the Apex Medical Board to assess his disability on 20-10-92 which was duly forwarded to the Medical Superintendent Bhowra/Jealgora Hospital. He submitted that while he was on sanctioned leave w.e.f. 24-2-94 to 18-3-94, the Medical Superintendent, Central Hospital, Jealgora conducted medical board and fixed 10-9-94 for his medical examination but as he was on sanctioned leave management could not intimate the said date to him and for which he did not get scope to appear before the said Board for his medical examination. He disclosed that Project Officer intimating the said fact to the Medical Superintendent Central Hospital, Jealgora vide letter No. PS/BH/OCP/94/9160 dt. 7-3-94 requested him to fix another date for his medical examination on his joining from leave. He alleged that inspite of that letter issued by the Project Officer the said Medical Superintendent did not consider to fix another date for his medical examination to assess his physical disability, illegally, arbitrarily and violating the principle of natural justice and thereby deprived him to get the benefits for employment of one of his dependent under clause 9.4.3 of the N.C.W.A.

Accordingly he submitted his prayer to pass award to the effect that management was not justified to deprive him from appearing before the Apex Medical Board for his

medical examination to assess his physical disability and also to pass necessary direction to give him relief under clause 9.4.3 of N.C.W.A.-IV.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in the written statement submitted by him. They submitted that the concerned workman was superannuated from his service w.e.f. 1-1-96 rendering 38 years of service, and working in quite normal condition. They also denied the fact that the concerned workman was suffering from any incurable disease while he was in service. They alleged that the concerned workman through his sponsoring union raised the industrial dispute at the fag end of his service with the expectation to avail the opportunity of clause 9.4.3 of N.C.W.A. IV taking the plea of his physical disability on the alleged ground of suffering from incurable disease. They submitted that the concerned workman rendered his full service till the date of his superannuation. They submitted that they did not do anything which could be considered as illegal and arbitrary act on their part which amounted to violation of the principle of natural justice. Accordingly they submitted their prayer to pass award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are :—

“Whether the action of the management of Bhowra O.C.P. of M/s. B.C.C.L. in superannuating Shri Sheonath Bari, Mechanical Fitter and denying the benefits of NCWA, Clause 9.4.3 is justified? If not, to what relief the concerned workman is entitled?”

5. FINDING WITH REASONS

It transpires from the record that the concerned workman with a view to substantiate his claim examined himself as witness in this case. Management on the contrary did not adduce any evidence.

Here the point for consideration is if the concerned workman is entitled to get the benefit of claim 9.4.3 of N.C.W.A. IV though he was not declared physically unfit by the Apex Medical Board. Considering the evidence of the concerned workman, facts disclosed in the pleadings of both sides and also considering materials on record I find no dispute to hold that the concerned workman was a Mechanical Fitter at Bhowra O.C.P. under the management.

6. It is the contention of the concerned workman that he fell seriously ill not only from incurable disease but also he was suffering from acute eye trouble and for that reason he had to remain under treatment at different hospitals under the management. He submitted that on account of his ill health as he felt himself incapable to discharge his duties properly submitted application on 20-10-92 before the management for sending him to Apex

Medical Board to assess his physical disability to work. He disclosed that while he was on sanctioned leave w.e.f. 24-2-94 to 18-3-94 Medical Superintendent Central Hospital Jealgora fixed 10-3-94 as the date for causing his appearance before Apex Medical Board for his medical test. He submitted that on leave as he was out of station at that time management could not intimate the said date to him and for which he could not get scope to appear before the said Medical Board. He submitted that Project Officer intimating this fact also informed Medical Superintendent with request to fix another date for causing his appearance before the Medical Board but said Medical Officer refused to fix any further date in this regard and for which he illegally deprived of getting the benefit of clause 9.4.3 of N.C.W.A. IV. He alleged that the decision taken by the management was illegal arbitrary and it violated the principle of natural justice. Considering document marked as Ext. M. 1 I find no dispute to hold that the concerned workman was directed to appear before Disability Medical Board at Jealgora Central Hospital on 10-3-94. It transpires that Project Officer, Bhowra O.C.P. vide letter No. PS/OH/OCP/94/9489 dt. 3/4-5-94 requested Dy. Chief Personnel Manager Bhowra Area to take up with Medical Superintendent Jealgora Central Hospital for fixing another date for medical examination of the concerned workman as he could not attend the Medical Board on 10-3-94 for his remaining on sanctioned leave. It further transpires that Project Officer vide letter No. PS/BH/OCP/94/9169 dt. 7/8-3-94 requested Medical Superintendent Jealgora Central Hospital to fix another date for medical examination of the concerned workman. It is seen that inspite of issuance of letters by the Project Officer, no date was fixed for medical examination of the concerned workman by the Medical Superintendent, Jealgora Central Hospital after 10-3-94. No reason was assigned by the said Medical Officer for not fixing any such date in response to the letter of request made by the Project Officer. Accordingly, there is sufficient reason to believe that Medical Superintendent deprived the concerned workman to get chance of his appearance before disability Medical Board. It is the claim of the concerned workman that as a result of which he was deprived of enjoying his privilege of clause 9.4.3 of N.C.W.A.-IV.

7. It is fact that Medical Superintendent acted arbitrarily in not giving opportunity to the concerned workman for his appearance before Disability Medical Board for his medical test. Clause 9.4.3 has pointed out clearly when and under which circumstances a workman can claim its benefit. The first and foremost condition according to that clause is that he must be declared medically unfit. It is the contention of the concerned workman that as he was suffering from incurable disease and also as he was facing eye trouble he submitted petition before the medical with a prayer for sending him before Apex Medical Board for his medical test. The copy of the petition during his evidence was marked as Ext. W-1/8. The concerned

workman during his evidence also submitted some medical papers Ext. W-1/2 to W-1/7 in support of his ailment. It is the contention of the concerned workman that he was suffering from incurable disease but he failed to disclose the name of that incurable disease from which he was suffering. It is seen that the concerned workman submitted his application on 20-10-92 for causing his appearance before Apex Medical Board for his disability test. I have carefully considered the relevant medical papers relating to his ailment Ext. W 1/2 to W-1/6. These medical papers relates to his treatment during the period of 1995. The leave applications marked as Ext. W-1, W-1/1, and W-1/7 shows that he went on sick leave during the period of 1994 for limited period. Considering these medical papers which the concerned workman relied on there is no scope to draw any conclusion that he was suffering from any acute disease which was incurable in nature. From these medical papers I also do not find any comment of the doctor about acuteness of his ailment which he was suffering from. Concerned workman in course of hearing has failed to produce any medical paper relating to his treatment prior to filing of his application before the management for his medical examination by the Disability Medical Board. It is admitted fact that the concerned workman was superannuated from his service with effect from 1-1-96. It is seen that he worked continuously till that date of his superannuation. As soon as a person moves towards his old age in natural course his physical fitness decreases. As it is a natural phenomenon such physical disability cannot be equated with the term physical disability if he was not actually suffering from any such acute incurable diseases. If the concerned workman was actually suffering from any acute disease of serious in nature in that case definitely it would not be possible for him to discharge his duties till the date of his superannuation from the date of filing application as it is seen that there was a gap of more than three years in between the same.

8. It is true that the concerned workman was deprived of facing the disability medical board for his medical examination due to arbitrary decision of the Medical Superintendent but for that reason there is no scope to say that he was entitled to get the benefit of clause 9.4.3 of N.C.W.A. IV. The concerned workman before claiming so cannot avoid his responsibility to establish his claim by producing cogent medical papers. The Medical papers which the concerned workman relied on in support of his claim are not at all sufficient enough to uphold his contention.

Accordingly, after careful consideration of all the facts and circumstances I hold that the concerned workman has failed to substantiate his claim with reasonable certainty.

In the result, the following award is rendered :—

“The action of the management of Bhowra O.C.P. of M/s. B.C.C.L. in superannuating Shri Sheonath Bari, Mechanical Fitter and denying the benefits of NCWA, clause 9.4.3 is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer.

नई दिल्ली, 29 अगस्त, 2003

का. आ. 2737.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ (संदर्भ संख्या 44/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2003 को प्राप्त हुआ था।

[सं. एल-23012/13/94-आई.आर. (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 29th August, 2003

S. O. 2737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/95) of the Central Government Industrial Tribunal cum Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 28-8-2003.

[No. L-23012/13/94-IR(C-ID)]

S. S. GUPTA, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

CHANDIGARH

Presiding Officer :

SHRI S. M. GOEL

Case No. ID 44/95

The President, B.B.M.B. Karamchari Sangh
Sunder Nagar (H.P.)

....Applicant

V/s.

The Chief Engineer, Bhakra Beas Management Board,
B.S.L. Sunder Nagar (H.P.)

.....Respondent

REPRESENTATIVES:

For the Workman : Shri Dhani Ram
 For the Management : Shri D.L. Sharma

AWARD

(Passed on 8th July, 2003)

The Central Govt. Ministry of Labour vide Notification No. L-23012/13/94/IR(C.II) dated the 25th May, 1995 has referred the following dispute to this Tribunal for the adjudication :

“Whether the management of the Bhakra Beas Management Board represented by the Chief Engineer BSL Sundernagar is justified in not making correction in date of Birth of the workman Sh. Satvir Sharda, Weldar G-I S/o Gurditta as 23-10-34 to 23-10-35. If not to what relief the workman is entitled to and from which date?”

2. In the statement of claim it is pleaded that applicant was appointed in Beas Construction Board (hereinafter referred to as B.C.B.) on 7-10-1968. He represented to the management for correction of date of birth which was wrongly maintained in the service book as 23-10-1934 instead of 23-10-1935 and he informed the management about two years prior to the retirement. Vide letter dated 11-1-94, Executive Engineer Technical Division refused to entertain the correction. Although he is matriculate, as per the school leaving certificate his date of birth is 23-10-1935. It is further pleaded by the applicant that despite his submitting the school leaving certificate prior to two years of his retirement the management has not corrected his date of birth and he was retired taking his date of birth as 23-10-1934 which is not justified. He has thus prayed that order of his premature retirement dated 31-10-34 may be set aside and he may be notionally considered to be retired to 31-10-95 instead of 31-10-94 and full wages upto 31-10-95 may be allowed to him.

3. In the written statement the plea taken by the management is that at the time of joining in BSL project applicant produced the Bhakra Dam discharge certificate in which his date of birth was recorded as 23-10-1934 and the workman slept over the matter for about 26 years w.e.f. 7-10-1968. He never objected the entry of his date of birth in the Bhakra Dam and thereafter in the B.C.B. It is further pleaded that in the service book the workman affixed his fingers impression in token of the correctness of his date of birth as 23-10-1934. Even in the seniority list circulated on 20-8-92 his date of birth was shown as 23-10-1934. He also challenged his date of birth at the verge of retirement. It is thus prayed that there is no merit in the case of applicant and the same deserved to be rejected.

4. In evidence applicant appeared himself as WW1 and also filed documents W2 to W6. He has admitted in cross-examination that his date of birth was entered in the service book of the B.C.B. on the basis of service book maintained by the Bhakra Dam. He has also admitted that he submitted his school leaving certificate two years before his retirement and he could not procure the school leaving certificate earlier as he was the General Secretary of the Union and used to remain busy in protecting the interests of the workman working on the B.C.B. In rebuttal the management produced MW1 Jasmer Singh who filed his affidavit Ex. M4.

5. I have heard Ld. representatives both the parties and have gone through the evidence and record of the case. The management has produced service particulars of the workman which are Ex. M3 and his date of birth has been recorded as 23-10-1934. His finger impression also appeared on this page and his signatures are also there on the service particular. Ex. M1 is the discharge certificate which also reveals that his date of birth is 23-10-1934. Ex. M2 is also the service particular maintained at B.C.B. In which his date of birth has been shown as 23-10-1934 and finger impression and signature of the workman also appeared on the service particulars. The only document on which the applicant relied is his school leaving certificate which is Ex. W5 and date of issue of this certificate is 5-10-1993. The date of retirement of the applicant is thus 31-10-1994. The applicant thus procured this certificate only one year prior to his retirement. Moreover, according to his particulars the workman was matric pass. He has not produced matric pass certificate to consider alteration of his date of birth as 23-10-1935. Therefore, at this belated stage the workman can not be allowed to change his date of birth. For my view I draw support from the case of Union of India Vs. Hamam Singh A.I.R. 1993 Supreme Court 1367 referred to by the management in which the Hon'ble Supreme Court has held that an entry as to date of birth of an employee recorded at the time of entry into service continued to exist for long period without challenge may be considered the basis for retirement. Refusal to make correction at later stage can not be considered justified. The workman has not made any efforts to get the entry of date of birth corrected at early stage of his entering into the service of the BBMB. Therefore, the management can not be directed to make any change in his date of birth. The action taken by the management is justified and workman is not entitled to any relief. The reference is answered against the workman. Central Govt. be informed.

CHANDIGARH

S.M. GOEL, Presiding Officer

Dated : 8-7-2003.

नई दिल्ली, 29 अगस्त, 2003

का. आ. 2738.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ (संदर्भ संख्या 11/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2003 को प्राप्त हुआ था।

[सं० एल-23012/5/94-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 29th August, 2003

S. O. 2738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/95) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 28-08-2003.

[No. L-23012/5/94-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, CHANDIGARH.

PRESIDING OFFICER, SHRI S. M. GOEL

CASE NO. I D. No. 11/95

Tilak Raj S/o Sh. Bishan Dass,
C/o Organising Secretary,
National Mazdoor Sangh
Nangal Township,
Distt. Ropar, (Pb.)

... Applicant.

Versus

Chief Engineer,
Bhakra Dam, B.B.M.B.
Nangal Township,
Distt. Ropar, (Pb.)

... Respondent.

REPRESENTATIVES

For the workman : Shri R.K. Singh.

For the management : Shri R.C. Atri.

AWARD

(Passed on 10th of July, 2003)

The Central Govt. Ministry of Labour vide Notification No. L-23012(5)/94/I.R.C. II dated 2nd February, 1995 has referred the following dispute to this Tribunal for adjudication:—

“Whether the action of the management of BBMB Nangal in retrenching Shri Tilak Raj is legal & justified? If not, to what relief the workman is entitled?”

2. It is pleaded in the claim statement that the applicant was engaged on daily wages as unskilled mazdoor in Nangal Workshop Division of the BBMB and his services were retrenched on 31-3-1993. It is further pleaded that the management has not taken any permission from the appropriate authority at the time of retrenchment although more than 600 workers were working there and it is also registered as factory and juniors were retained and 33 more workmen were recruited after the termination of the services of the workman. It is also pleaded that he was not paid any retrenchment compensation at the time of retrenchment and he was also not called for re-employment and thus the management has also violated the Section 25-H of the I.D. Act, 1947. The applicant thus prayed that he be reinstated in service with full back wages and other benefits.

3. Preliminary objection has been taken in the written statement by the management that deployment and disengagement has been done strictly in accordance with the policy and seniority list framed in accordance with the direction of the Hon'ble H.P. High Court in the case of CWP 27/88 in Ram Piari's case. On merit it is pleaded that the petitioner was retrenched due to deduction in specific work against which the workman was deployed and one month notice was also served and he was also paid one month salary and retrenchment compensation and services of the workman was retrenched correctly under the I.D. Act and the workman is not entitled to any relief in the present reference. It is therefore, prayed that the reference be rejected.

4. Rejoinder was also filed reiterating the claim made in the claim statement.

5. In evidence the applicant filed his own affidavit as Ex. W1 and documents Ex. W2 to W7. The applicant in cross-examination admitted that notice of one month was served to him and he was also paid retrenchment compensation amounting to Rs. 3000/- at the time of retrenchment.

6. In rebuttal the management produced Sh. A.K. Ahluwalia as MW1 who filed his affidavit Ex. M1 and documents Ex. M2 to M5.

7. I have heard the learned representatives of both parties who also filed written arguments. I have gone through the evidence, and written arguments of the parties. In the written arguments on behalf of the workman it is contended that the management has violated Section 25-N of the I.D. Act 1947 as no permission from the appropriate authority has been taken. For this arguments the workman also relief on 1990(78) F.J.R. 412. It is further argued by the learned representative of the workman that it is admitted by the management that about 600 workers were working in this unit and thus the workman be reinstated into service with full back wages. I have gone through the judgment cited by the learned rep. of the workman. It is admitted case of the parties that the applicant was working in this unit on

daily wage basis and he was not the permanent workman. He was employed for the specific job and when the work against which he was deployed came to an end his services were retrenched and he was given one month notice and was also paid retrenchment compensation as has been admitted by the workman in his cross-examination. The authority cited by the workman is not applicable in the facts and circumstances of the case in hand as the workman was a daily wager and his services were retrenched after complying with the provisions of Section 25-F of the I.D. Act 1947. Therefore, to my mind the management was not under any obligation for taking permission of the appropriate authority before retrenching the services of the applicant. It has also not been proved by the workman by any evidence that the juniors to the workman were retained or employed later on. He has also not disclosed the names of any such persons as might have been retained or employed later on. I find no merit in the present reference and the same is returned against the workman. Appropriate Govt. be informed.

Chandigarh

Dated: 10-7-2003

S. M. GOEL, Presiding Officer,
Central Govt. Industrial
Tribunal-cum-Labour Court, Hry.
Press Depot Building, 2nd Floor,
Sector 18-A, Chandigarh.

नई दिल्ली, 29 अगस्त, 2003

का. आ. 2739.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय बी.बी.एम.बी. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ (संदर्भ संख्या 12/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2003 को प्राप्त हुआ था।

[सं० एल-23012/4/94-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 29th August, 2003

S. O. 2739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/95) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 28-08-2003.

[No. L-23012/4/94-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER, SHRI S. M. GOEL

CASE No. I D No. 12/95

Sh. Harjab Singh S/o Sh. Karam Singh,
C/o R. K. Singh Parmar, Secretary, Pb. INTUC,
Nangal Township,
Distt. Ropar, (Pb.)

... Applicant.

Versus

Chief Engineer,
Bhakra Dam, B.B.M.B.
Nangal Township.
Distt. Ropar, (Pb.)

... Respondent.

REPRESENTATIVES

For the workman : Shri R. K. Singh.

For the management : Shri R. C. Sharda

AWARD

(Passed on 11-7-2003)

The Central Govt. Ministry of Labour vide Notification No. L-23012/4/94/I.R.C. II dated 2nd February, 1995 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of BBMB Nangal in retrenching Shri Harjab Singh is legal & justified? If not, to what relief the workman is entitled?”

2. In the claim statement it is pleaded by the workman that he was engaged on daily wages as unskilled mazdoor in Nangal workshop Division in 1985 and his services were retrenched w.e.f. 31-3-1993. It is pleaded that more than 600 workers are working in the Nangal Workshop but at the time of termination/retrenchment permission from the appropriate authority. It is also pleaded that new recruits numbering 33 were recruited and retrenchment compensation was also not paid at the time of retrenchment and he was also not given any opportunity of re-employment. It is thus prayed that he be reinstated in service with full backwages and other benefits.

3. Preliminary objection has been taken in the written statement by the management that deployment and disengagement of the workers has been done strictly in accordance with the policy and seniority list has been framed in accordance with the directions of the Hon'ble H.P. High Court in the case of CWP 27/88 in Ram Piari's case. On merit it is pleaded that the petitioner was retrenched due to deduction in specific work against which the workman was deployed and one month notice was also served and he was also paid one month salary and retrenchment compensation and services of the workman was retrenched correctly under provisions of the I.D. Act 1947. It is thus prayed that there is no merit in the reference and the same deserves rejection.

4. Rejoinder was also filed reiterating the claim made in the claim statement.

5. In evidence the applicant filed his own affidavit as Ex. I and documents Ex. W2 to W7. He has admitted in

cross-examination that he was retrenched on 31-3-1993 due to reduction of work. In rebuttal the management produced Shri A.K. Ahluwalia as MW1 who filed the affidavit Ex. M1 and documents Ex. M2 to M6.

6. I have heard the learned representatives of the parties and also have gone through the written arguments filed by both the parties. In the written arguments on behalf of the workman it is contended that the management has violated Section 25-N of the I.D. Act 1947 as no permission from the appropriate authority has been taken. For his arguments the workman also relied on 1990(78) F.J.R. 412. It is further argued by the learned representative of the workman that it is admitted by the management that about 600 workers were working in this unit and thus the workman be reinstated into service with full backwages. I have gone through the judgment cited by the learned rep. of the workman. It is admitted case of the parties that the applicant was working in this unit on daily wage basis and he was not the permanent workman. He was employed for the specific job and when the work against which he was deployed came to an end his services were retrenched and he was given one month notice and was also paid retrenchment compensation as has been admitted by the workman in his cross-examination. The authority cited by the workman is also application in the facts and circumstances or the case in hand as the workman was a daily wager and his services were retrenched after complying with the provisions of Section 25-F of the I.D. Act 1947. Therefore, to my mind the management was not under any obligation for taking permission of the appropriate authority before retrenching the services of the applicant. It has also not been proved by the workman by any evidence that the juniors to the workman were retained or employed later on. He has also not disclosed the names of any such persons as might have been retained or employed later on. I find no merit in the present reference and the same is returned against the workman. Appropriate Govt. be informed.

Chandigarh

Dated: 11-7-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 29 अगस्त, 2003

का. आ. 2740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय एस.ई.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी०जी०आई०टी०/एल०सी०आर०/44/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2003 को प्राप्त हुआ था।

[सं० एल- 22012/58/96-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 29th August, 2003

S. O. 2740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/44/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 28-08-2003.

[No. L-22012/58/96-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

CASE NO. CGIT/LC/R/44/97

PRESIDING OFFICER, SHRI R. K. DUBEY

Shri Devendra Kumar Pandey,

C/o Shri B.N. Singh,

Vice President,

NCWF

Post Rajnagar Colliery (HP)

... Applicant.

Versus

The Sub Area Manager,

Rajnagar Opencast Mines,

Post Dola,

Distt Shahdol (MP)

...Non-applicant

AWARD

(Passed on this 18th day of August, 2003)

The Government of India, Ministry of Labour *vide* Order No. L- 22012/58/96/I.R.(C. II) dated 24-2-97 has passed the following dispute for adjudication by this tribunal :

“Whether the action of the Sub area Manager/ Agent, Rajnagar opencast mines of Hasdeo Area of SECL in dismissing Shri Devendra Kumar Pandey, Security Guard, Rajnagar Opencast Mines from services w.e.f. 27/5/95 is legal and justified? If not, to what relief the workman is entitled?”

2. During the pendency of the reference, management filed an application for the No Dispute Award along with a copy of the Form H. I peruse the Application. According to the application and Form-H, the management reinstated the workman into his service therefore this settlement is in the interest of workman therefore the application filed by the management is accepted and it is ordered that :—

1. Shri Devendra Kumar Pandey, S/o Satya Dev Pandey will be reinstated as security guard.

2. The workman Devendra Kumar Pandey will not Pandey get back wages or consequential benefits from the date of dismissal i.e. 27-2-95 to the date of actual joining of

duty on the principle of No Work No pay but workman will be given continuance of service for the purpose of calculation of gratuity.

3. Both parties shall bear their own costs.

4. Copy of the award be sent to the Govt. of India, Ministry of Labour as per rules.

R. K. DUBEY, Presiding Officer

नई दिल्ली, 29 अगस्त, 2003

का. आ. 2741.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई.पी.एफ.ओ. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई (संदर्भ संख्या 91/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2003 को प्राप्त हुआ था।

[सं० एल-42012/147/2001-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 29th August, 2003

S. O. 2741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of EPFO and their workman, which was received by the Central Government on 28-08-2003.

[No. L-42012/147/2001-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 22nd August, 2003

PRESENT : K. JAYARAMAN,

Presiding Officer.

INDUSTRIAL DISPUTE NO. 91/2002

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Employees Provident Fund Organisation and their workmen).

BETWEEN

The General Secretary,
Employees Provident
Fund Staff Union,
Coimbatore

I Party/Claimant

AND

1. The Regional Provident Fund : II Party/Management
Commissioner-I,
Employees Provident Fund
Organisation, Chennai
2. The Regional Provident Fund : IIParty/Management
Commissioner, Employees
Provident Fund Organisation,
Coimbatore.

APPEARANCES:

For the Workman : Sri Leon Singaviour,
Authorised Representative.

For the Management : M/s. M. Veluswami, Sr.CGSC
D. Sivaramkumar &
Veenapremchandar,
Advocates.

The Central Govt. Ministry of Labour vide Notification Order No. L-42012/147/2001/IR.(C.M. II) dated 27-09-2002 has referred the following dispute to this Tribunal for adjudication :—

“Whether the demand of the Employees’ Provident Fund Staff Union, Coimbatore for transfer of the workmen on rotational basis as per the transfer policy laid down in letter dated 11-11-1980 of Central Provident Fund Commissioner, New Delhi is legal and justified? If yes, to what relief they are entitled to?”

2. The matter was taken up on the file of this Tribunal as I.D. No. 91/2002 and notices were issued to both sides. On behalf of the workmen, nobody appeared before this Court. Even though, the Claim Statement was filed by the I Party. The I Party never appeared before this Court for enquiry. The other side filed their Counter Statement and were ready for enquiry. It appears that the I Party/Claimant is not interested in pursuing the matter.

3. In view of the above circumstances, the present reference is returned to Ministry for want of prosecution. The Central Government is informed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd August, 2003).

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2003

का. आ. 2742.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोलम के पंचाट (संदर्भ संख्या 58/2000) को

4. The evidence consists of the deposition of the workman as WW1 and Ext. W1 on her side. One witness was examined as MW1 on the side of management. Exts. M1 to M5 have been also marked on their side.

5. The workman is attacking her termination from the service of management in support of her claim for reinstatement in service she has filed proof affidavit and was cross examined as WW1. It is stated in the affidavit that she was employed in the bank as a safai karmachari from 10-10-1990 to 27-10-1993, that she had continued in service as a permanent workman and obtained salary by signing vouchers and also by crediting in her bank account that she was continuously employed against a permanent vacancy and worked regularly from 7.30 AM to 11AM on all working days of Ezhumattoor branch and that she was not given any appointment order. According to her no one else was employed at that branch as safai karmachari during the period from 10-10-1990 to 27-10-1990 that she was retrenched without serving notice nor paying retrenchment compensation. The action of management is against Sec. 25-F, 25G and 25-H of the Act, paras 522(4), 523, 524(1), 507 and 493 of Sasthri Award governing banking industry and clause 20.12 First Bipartite settlement.

6. The witness examined on the side of the management as MW1 has admitted that the workman was paid salary in P&L. Miscellaneous, Daily Wages Paid Account ('the Account' for short) and all such payments are included in this account. But the management has not produced the entire account for the period in question. The workman has specifically called upon the management to produce the relevant records such as register of retrenched and temporary employees account for the period from 10-10-1970 to 27-9-1993, debit slips/vouchers for the said period in respect of the said account. SB account maintained in the name of the workmen and circulars issued by the management and responses received from Ezhumattoor branch where the workman was employed to establish her case. But the management has produced only 9 vouchers for the years 1991-92, copy of SB Account for some period and P&L miscellaneous account for the period from 9-4-1992 to 29-10-1993 only. There is no explanation from the management for the non production of the balance records which are necessary for the proper and effective disposal of this case. In the absence of any reason for the non production of the material records it can only be concluded that the management did not produce those records purposely because if produced that would prove against the management's case. Admittedly the workman is not in possession of any records to prove that she was employed more than 240 days within a period of 12 months.

7. According to MW1 the management is not keeping the register showing service particulars of the workman which is against the relevant provision in the Sasthri Award. As per para. 493 of the Sasthri Award the management is bound to maintain register of retrenched and temporary employees recording the details of temporary workmen employed by them. But the management has not produced such a register. MW1 has admitted that he has not verified Ext. M1-series vouchers

with P&L miscellaneous daily wages paid account which alone can clearly prove the total number of days worked by the workman. Further according to MW1, Ext. M5-series circulars have been issued to branches from the Regional office for sending particulars of part time karmachari to the Regional Office. But the management has not produced such details regarding the workman. MW1 has admitted that according to him the workman has not worked 240 days on the basis of Ext. M1-series vouchers only. Paras : 493 of the Sasthri Award states about the appointment and service conditions of temporary employees and as per that a register should be maintained in respect of temporary staff with all particulars of employees. As para. 495 of the award when a person is appointed letter should be given stating the period of appointment and salary and as per para. 516, SB of the employee is to be maintained. Further per para : 312 the attendance of the employees is to be recorded in the Muster Roll. The management failed to produce the relevant and material registers with reference to the workman without any explanation. The action of the management has adversely affected the claim of the workman and it can be considered as a tactic to defeat the claim of the workman. It is also noticeable that there is no evidence on the side of the management to show that any other person has worked as safai karmachari in the particular branch of the bank during the disputed period other than the workman. In these circumstances and in the absence of material documents, the case pleaded by the workman that she was employed by the management for more than 240 days during the period of 12 months from 10-10-1990 to 27-10-1993 has to be accepted in the interest of justice.

8. Admittedly the workman was not given any notice nor paid compensation as contemplated under Sec. 25-F of the Act before terminating her services. The management has not complied the conditions stipulated in Sec. 25-F of the Act. Therefore the termination of the workman's service amounts to retrenchment which is illegal and ab initio void. Further the management while terminating the service of the workman has not complied the minimum conditions laid down in para. 522(4), 523 and 524(1) of the Sasthri Award. On this ground also, the termination of the workman's service is illegal and void. Hence she is entitled to be reinstated in service with all benefits.

9. The workman has a contention that while retrenching her service the management has retained workman much junior to her and regularised in permanent cadre which is violative of Sec. 25-G of the Act and para. 507 of the Sasthri Award. It is also contended that the management has taken new hands in service without considering this workman and without affording opportunity to her. This according to her is illegal and violative of Sec. 25-H of the Act and para. 493 of the Sasthri Award. But there is no evidence in support of these contentions to prove that the management has retained such workmen and regularised them in service. Therefore these contentions are only to be rejected.

10. There is yet another contention that having completed more than 240 days of service during the period of 12 consecutive months the workman is eligible to be absorbed/regularised in permanent cadre even without any written test of interview as per circular No. C. 622 dated 12-3-1991 issued by the bank. But the management without complying the above circular has illegally and malafide retrenched his services. As stated earlier the management has not produced the service details of the workman particularly the responses received from Ezhumattoor branch to Ext. M-5 series circulars issued by the management to that branch. In the absence of the said records and on the basis of my above finding that the workman has completed more than 240 days of service during a period of 12 consecutive months, he is eligible to be regularised as per the said circular dated 12-3-1991 also.

11. In view of what is stated above, an award is passed declaring that the action of the management of Central Bank of India in terminating the service of the workman Smt. M.G. Sujatha, is illegal and unjust and directing the management to reinstate her in service with continuity of service and all attendant benefits.

C. N. SASIDHARAN, Industrial Tribunal

APPENDIX

Witness examined on the side of the Workman

WWI. Smt. M.G. Sujatha

Witness examined on the side of the Management

MW1. Sri V. Ramaswami Sarma

Document marked on the side of the Workman

Ext. W1. Photostat copy of failure of conciliation report sent to the secretary to Government of India from the Asst. Labour Officer (Central), Trivandrum.

Documents marked on the side of the Management

Ex. M1. Series (6 nos.) Photostat copies of vouchers for the year 1990.

Ext. M2. Series (9 nos.) Vouchers for the year 1991.

Ext. M3. Photostat copy of SB account No. 3779 for the period from January, 1989 to July, 1994 in the name of the workman Smt. M.G. Sujatha from the management bank.

Ext. M4. Copy of P&L Miscellaneous Daily Wages Paid Account for the period from 9-4-1992 to 29-10-1993

Ext. M5. Series (2 nos.) Photostate copy of circulars issued by the Regional office of the management dated 18-9-1990. and 18-2-1991.

नई दिल्ली, 1 सितम्बर, 2003

का. आ. 2743.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोलम के पंचाट (संदर्भ संख्या 59/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-8-2003 को प्राप्त हुआ था।

[सं० एल- 12012/149/98-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 1st September, 2003

S. O. 2743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.59/2000) of the Industrial Tribunal, KOLLAM as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and workman, received by the Central Government on 29-8-2003.

[No.L-12012/149/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE COURT OF THE INDUSTRIAL
TRIBUNAL, KOLLAM

(Dated, this the 6th day of August, 2003)

PRESENT : SRI C. N. SASIDHARAN

INDUSTRIAL TRIBUNAL

IN

INDUSTRIAL DISPUTE NO. 59/00

BETWEEN

The Regional Manager,
Central Bank of India,
Gopal Buildings, Thivila Road,
Trivandrum.

Management

(By Sri. R. Kunjukrishnan Potti,
Advocate, Trivandrum

AND

Sri. P. Ayyappan, Mannaravelil,
Aranmula P.O.,
Pathanamthitta. Kerala.

(By S/s. H.B. Shenoy & Ashok B.
Shenoy, Advocates, Cochin)

Workman

AWARD

The Government of India by Order No. L-12012/149/98-IR (B-II) dated 6-7-2000 have referred this industrial dispute for adjudication in this Tribunal.

The issue for adjudication is the following :

“Whether the action of the management of Central Bank of India denying employment to Sri P. Ayyappan, part-time sweeper is justified? If not, to what relief the workman is entitled and from which date?”

2. The contentions advanced by the workman Sri P. Ayyappan are briefly as under : The workman was employed as a part-time sweeper at Aranmula branch of the management bank from November, 1984. At the time of appointment he was not given any appointment letter though he was employed against a permanent vacancy to do regular and permanent nature of work. He was not extended the privileges and benefits of permanent part-time sweeper in the bank though he was appointed against a permanent vacancy. He was treated as a temporary workman though he was continuously employed to deprive him the status and privileges of permanent workman. The management retrenched the services of the workman on 1-7-1997 without complying the provisions of law. All India Awards and Bipartite settlements ignoring his requests for regularisation. He was not given notice of retrenchment and not given compensation. The retrenchment is illegal and *ab-initio* void. The management while retrenching the services of the workman retained other workman much junior to him and regularised in permanent cadre. Further the management has taken new hands in service without affording the workman an opportunity for re-employment. The actions of the management are in violations of the relevant provisions in Industrial Disputes Act, 1947 (‘the Act’ for short) Sasthri Award and First Bipartite settlement rendering the retrenchment illegal and unjust. The management has conducted test on 4-3-1992 for absorption of temporary workmen in permanent cadre without affording opportunity to the workman. He was not considered for the subsequent interview also. The workman was satisfied the conditions prescribed by circular dated 12-3-1991 issued by the bank and hence eligible to be regularised even without any written test and interview. The action of management is *malafide* also. He is without employment since 1-7-1997 and is entitled to be reinstated in service with all benefits.

3. The contentions of management are briefly as below : The claimant Sri Ayyappan is not a workman as contemplated under the Act and is not entitled to any relief. He worked only as a daily waged casual labourer in April 1988 for clearing bank premises and never worked for 240 days in a continuous period of 12 calendar months. He was engaged on casual basis on daily wages from the year 1988 to 96 for a total number of 111 days only. The claimant was never employed as a part-time sweeper and he can never

be deemed as a permanent employee in the bank. He was never employed in a regular vacancy. Since he was not a permanent employee, there was no termination and issuance of notice is also not necessary. He has no legal right to claim compensation. The claimant was never been in continuous service and he cannot therefore claim any benefits under Sec. 25-F of the Act. There was no necessity of serving notice in writing to him. The workman is not having any consistent case as evident from charter of demand and his claim statement. He was among the casual labourers who was never employed for more than 240 days continuously in a period of 12 calendar months and is not entitled to get any benefits. Therefore the question of reinstatement also does not arise. The present claim is barred under the provisions of law and is unsustainable. The workman is not entitled to get any relief contemplated under law.

4. The evidence consists of the deposition of the workman as WW1 and Ext. W1 on her side. One witness was examined as MW1 on the side of management. Exts. M1 to M5 have also been marked on their side.

5. The workman Sri. Ayyappan is claiming re-instatement in service contending that the management has denied him employment illegally. In support of the claim he has filed proof affidavit. It is stated therein that he was employed as part-time sweeper at Aranmula branch from November 1984 and continued there as permanent employee till 1-7-1997 that he has received salary after signing vouchers and also crediting the amount in his SB Account in the bank that no appointment order was issued to him at the time of joining the bank and that the management is in possession of the records proving his service in the bank. It is further stated that he has worked more than 240 days within a period of 12 months. It is also his case that during the period of his employment there was no other part-time sweeper. In support of his case the management was called upon to produce certain records such as regular of retrenched and temporary employees to be maintained under para 493 of the Sasthri Award in respect of Aranmula branch P&L Miscellaneous Daily Wages Paid Account maintained at Aranmula branch and payment vouchers thereof for the period from 10-10-1990 to 27-10-1993. Debit slips/vouchers in respect of the said account for the above period, SB Account No. 3901 maintained in his name and 5 circulars dated 13-3-1990, 18-9-1990 18-12-1991, 12-3-1991 and 20-9-1993 issued by the management bank and responses thereto received from Aranmula branch. But the management has produced only 18 vouchers, copy of particulars of SB Account for the period from December, 1982 to October, 1993 and copies of 3 circulars issued to the branches without the responses

received thereto. There is no explanation at all for the non production of the balance registers which alone can prove the case pleaded by the workman and the management.

6. The witness examined on the side of the management as MW1 has stated that the workman worked for total period of 111 days temporarily during the period '88 to '96. But this statement is contrary to the statement in Ext. M2 bank account wherein it is recorded that the workman was paid from December, 1982 onwards. It may be recalled that in the written statement filed by the management before this Tribunal it is specifically stated that the workman was employed only as casual labourer for the first time in April, 1988. These contrary stands of the management itself show that the management is pleading false case. MW1 has admitted that salary was paid to the workman through P&L Miscellaneous Daily wages paid register after signing vouchers. Though this witness has agreed to produce the relevant portion of the said register, that was not produced. He has also stated that he has not verified Ext. M1-series vouchers with the said register. The management has produced only 18 vouchers from 27-3-1991 to 2-11-1992 which includes the names of other employees as well. According to this witness such verification was done in the Aranmula branch and there is certificate to that effect which he was agreed to produce before this Tribunal. But that was also not produced. This witness has further deposed that payment was effected to the workman sometimes through vouchers and sometimes by crediting in Ext. M2 account. But the entire portion of the bank account and the vouchers have not been produced for effective verification.

7. As per Ext. M3-series and Exts. W1 to W3 circulars the management intimated Aranmula branch to send the service details of temporary employees and also list of eligible persons to be absorbed. Admittedly as per these circulars if there is no eligible person a 'NIL' statement must be sent from the branch. But in the present case the management has not produced statement of details of temporary workmen and list of eligible person sent from the Aranmula branch without any explanation. According to this witness Ext. M1-series vouchers can be said to be complete only after verifying the same with miscellaneous Daily wages paid Register. But there is no evidence of any such verification. In these circumstances non production of the records called for by the workman stated in the earlier paragraph is very much material. The management failed to produce those documents without any explanation and the non production has adversely affected the claim of the workman. The action of management can only be considered as a tactics purposely done to defeat the claim of the workman and that the management has not produced those documents because if produced that would prove against their case. It is also noticeable that there is no

evidence adduced on the side of the management to show that any other person has worked as part-time sweeper in the particular branch of the bank during the disputed period, other than the workman.

8. According to MW1 the management is not keeping the register showing service particulars of the workman. This action of management is against the relevant provision in the Sasthri Award. As per para. 493 of the award the management is bound to maintain register of retrenched and temporary employees recording the details of temporary workmen employed by them. But the management has not produced such a register. Para. 493 of the award further states about the appointment and service conditions of temporary employees and as per that register should be maintained in respect of temporary staff with all particulars of employees. As per para. 493 of the award if a person is appointed letter should be given stating the period of appointment and salary and as per para. 516, Service Book of the employees is to be maintained. Further as per para. 312, attendance of the employee is to be recorded in the Muster Roll. The management failed to produce the above relevant and material registers with regard to the workman without any explanation. The statement of MW1 that the management is not keeping any such records can only be considered as an after thought to escape from the laches. In the above circumstances and in the absence of material documents the case pleaded by the workman that he was employed by the management for more than 240 days during the period of 12 months from November, 1984 to 1-7-1997 has to be accepted in preference to the case pleaded by the management, particularly on the ground that there are no reasons to disbelieve the same case of workmen.

9. Admittedly the workman was not given any notice nor paid compensation while retrenching his services though he had put in continuous service of not less than one year in the management bank. He was not paid retrenchment compensation as well. The management has thus violated the conditions in Sec. 25-F of the Act and hence the action of management is illegal and *ab initio* void. Further the management has not complied with the minimum conditions laid down in paras. 522, 523, 524 of the Sasthri Award and on this account also retrenchment of the workman's service is illegal and void.

10. The workman has a further contention that while retrenching his services the management has retained workman much junior to him and regularised in permanent cadre which is violative of Sec. 25-G of the Act and para. 509 of the Sasthri Award. It is also contended that the management has taken new hands in service without considering this workman and without affording opportunity to him. According to him the said action of management is illegal and violative of Sec. 25-H of the Act,

para, 493 of the Shastri Award and clause 20.12 of the first bipartite settlement rendering the retrenchment of the workman's services illegal and unjust. But there is no evidence on record in support of the above contentions that the management has retained such workman and regularised him in service. In the absence of any such evidence, these contentions are only to be rejected.

11. There is yet another contention that having completed more than 240 days of service during the period of 12 consecutive months the workman is eligible to be absorbed/regularised in permanent cadre even without any written test or interview as per circular No. C. 622 dated 12-3-1991 issued by the bank. But the management without complying the above circular has illegally and malafide retrenched his services. As stated earlier the management has not produced the service details of the workman particularly the responses received from Ezhumattoor branch to Ext. M5-series circulars issued by the management to that branch. In the absence of the said records and on the basis of my above finding that the workman has completed more than 240 days of service during a period of 12 consecutive months, he is eligible to be regularised as per the said circular dated 12-3-1991 also.

12. In the result, I hold that the action of the management of Central Bank of India in denying employment to Sri. P. Ayyappan, part-time sweeper, is unjustified and hence he is entitled to be reinstated in service with all attendant benefits.

An award is passed accordingly.

C. N. SASIDHARAN, Industrial Tribunal

APPENDIX

Witness examined on the side of the Workman :

WW1. Sri P. Ayyappan.

Witness examined on the side of the Management :

MW1. Sri V. Ramaswamin Sarma.

Documents marked on the side of the Workman .

- Ext. W1. Photostat copy of circular dated 13-3-1990 issued by the regional office of the management.
- Ext. W2. Photostat copy of circular dated 12-3-1991 issued by the Central office of the management.
- Ext. W3. Photostat copy of circular dated 20-9-1993 issued by the Central office of the management.

Documents marked on the side of the Management :

- Ext. M1.—series (18 nos.) Photostat copy of vouchers for the period from 27-3-1991 to 21-11-1992.
- Ext. M2.—Photostat copy of the details of SB Account No. 3901 of the workman in the management bank.
- Ext. M3.—series (2 nos.) Photostat copy of circulars dated 18-9-1990 issued by the Regional office of the bank to all branches in Cochin region.

नई दिल्ली, 2 सितम्बर, 2003

का. आ. 2744.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑयल एण्ड नैचुरल गैस कॉर्पोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 36/2001 से 65/2001 व 75/2001 से 115/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-2003 को प्राप्त हुआ था।

[डायरी सं. 158, दि. 1/9/03]

बी. एम. डेविड, अवर सचिव

New Delhi, the 2nd September, 2003

S. O. 2744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2001 to 65/2001 and 75/2001 to 115/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Corporation and their workman, which was received by the Central Government on 01-09-2003.

[Dy. No. 158, Dt. 1/9/03]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 30th day of June, 2003

INDUSTRIAL DISPUTES
L.C.I.D. Nos. 36/2001 to 65/2001 and 75/2001 to
115/2001 (Batch cases)

Between :

S/Sri

1. N. Satyanarayana	LCID 36/2001	27. G. Ashok	LCID 62/2001
2. M.V. Raghavaiah	LCID 37/2001	28. K. Srinivas	LCID 63/2001
3. R.N. Prasad	LCID 38/2001	29. K. Suresh	LCID 64/2001
4. P. Satyanarayana	LCID 39/2001	30. K. Chakravarthi	LCID 65/2001
5. K.V. Reddy	LCID 40/2001	31. K. Krishna	LCID 75/2001
6. Ch. V.V. Satyanarayana	LCID 41/2001	32. B. Malleswara Rao	LCID 76/2001
7. K. Mohan Rao	LCID 42/2001	33. K. Rama Rao	LCID 77/2001
8. S. Ashok	LCID 43/2001	34. S. Subramanyam	LCID 78/2001
9. N. Sathish	LCID 44/2001	35. K. Hari Prasad	LCID 79/2001
10. B. Srinivas	LCID 45/2001	36. S. Venkateswarlu	LCID 80/2001
11. Laxman Dora	LCID 46/2001	37. T.N.V. Satyanarayana Reddy	LCID 81/2001
12. K. Ashok Kumar	LCID 47/2001	38. M. Prasad	LCID 82/2001
13. S.T. Naidu	LCID 48/2001	39. Ch. Ramanjaneyulu	LCID 83/2001
14. K.V. Ramana	LCID 49/2001	40. B. Nageshwara Rao	LCID 84/2001
15. M. Rajasekhar	LCID 50/2001	41. A.V.S. Kameswara Rao	LCID 85/2001
16. Ch. Rajamouli	LCID 51/2001	42. A.V. Krishna Rao	LCID 86/2001
17. B. Raghu	LCID 52/2001	43. G. Abraham	LCID 87/2001
18. B. Ilaiiah	LCID 53/2001	44. M. Narasimha Rao	LCID 88/2001
19. M. Srinivas	LCID 54/2001	45. K. Pullaiah Naidu	LCID 89/2001
20. P. Rajender	LCID 55/2001	46. G. Rama Mohan Rao	LCID 90/2001
21. M. Prabhakar	LCID 56/2001	47. V. Srinivas Reddy	LCID 91/2001
22. K. Rama Rao	LCID 57/2001	48. Ch. Satyanarayana	LCID 92/2001
23. M. Anjaneyulu	LCID 58/2001	49. N. Srinivasa Reddy	LCID 93/2001
24. K.I. Kondala Rao	LCID 59/2001	50. A. Rajesh	LCID 94/2001
25. B. Kishore Kumar	LCID 60/2001	51. E. Satyanarayana	LCID 95/2001
26. K.V. Ratnam	LCID 61/2001	52. K. Durga Rao	LCID 96/2001
		53. S. Rama Krishna Rao	LCID 97/2001
		54. P. Bala Rajashekhar	LCID 98/2001
		55. P. Chandra Sekhar	LCID 99/2001
		56. T. Srinivasa Rao	LCID 100/2001
		57. A. Satyam	LCID 101/2001

58. M. Bhanu Kumar	LCID 102/2001
59. S. Hari Babu	LCID 103/2001
60. P. Venkateswarlu	LCID 104/2001
61. G. Madhava Rao	LCID 105/2001
62. M. V. Raghava Reddy	LCID 106/2001
63. K. Kamalakar	LCID 107/2001
64. P. Krishnam Raju	LCID 108/2001
65. K. Prabhakar	LCID 109/2001
66. G. Somesh	LCID 110/2001
67. I. V. Veera Babu	LCID 111/2001
68. A. N. K. Jagannadham	LCID 112/2001
69. Ch. Bujji Babu	LCID 113/2001
70. G. V. S. Gangadhar	LCID 114/2001
71. B. H. R. Anil Kumar	LCID 115/2001

C/o Sri William Burra,
Advocate,
No. 11-5-76,
Road No. 16, S. V. Colony,
Saroomagar, Hyderabad-500 035. ... Petitioners

And

1. The Group General Manager,
Oil and Natural Gas Corporation Ltd.,
Godavari Project,
New Jetty Building, Danavaipet,
Rajahmundry-533-105.
2. The President,
Godavari Industrial Workers,
Maintenance & Service Co-op.
Society Limited,
Rajahmundry.
3. The Ex-Servicemen Recruitment,
Co-ordinate Co-op Society Ltd.,
D. No. 44-15-11, Auto Centre,
Bypass Road,
Rajahmundry. ... Respondent

APPEARANCES :

For the Petitioner : Sri William Burra,
Advocate

For the Respondent : —

COMMON AWARD

These are the cases taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri. U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. These cases are filed by Contract workmen alleging that it was a sham and nominal contract and this Court numbered the 71 petitions filed by the above workmen as LCID Nos. 36/2001 to 65/2001 (30 cases) and LCID Nos. 75/2001 to 115/2001 (41 cases). The same were challenged by the Respondent No. 1, that this Court has no jurisdiction, by way of Writ Petition No. 21925/2001 and batch.

3. In view of the Judgement of the Hon'ble High Court passed in the WP No. 21925 of 2001 and batch (in 71 writ petitions) by order dated 21st day of January, 2003 the Hon'ble High Court has allowed WP No. 21925 of 2001 and batch. Held that this Court has got no jurisdiction and it further held, "It does not preclude the adjudication of the rights and entitlement of the contract labour if the same is brought before this Court (Central Govt. Industrial Tribunal-cum-Labour Court, Hyderabad) in accordance with the procedure under Sec. 10(1) read with Sec. 2(k) of the I.D. Act." Hon'ble High Court has allowed the writ petitions (71 cases mentioned in the 1st and 2nd pages of this Award) are also dismissed accordingly.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 30th day of June, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 सितम्बर, 2003

का. आ. 2745.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑयल एण्ड नैचुरल गैस कॉर्पो. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 122/2001 से 141/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-2003 को प्राप्त हुआ था।

[डायरी सं.-159, दि. 1/9/03]

बी. एम. डेविड, अवर सचिव

New Delhi, the 2 September, 2003

S. O. 2745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 122/2001 TO 141/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Corporation and their workman, which was received by the Central Government on 01-09-2003.

[Dy. No. 159, Dt. 1/9/03]

B.M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT:
AT HYDERABAD**

Present :

Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 30th day of June, 2003

INDUSTRIAL DISPUTES

L.C.I.D. Nos. 122/2001 to 141/2001 (Batch cases)

Between :

S/Sri

- | | |
|-------------------------|---------------|
| 1. G. Ratnam Raju | LCID 122/2001 |
| 2. T.V.V. Satyanarayana | LCID 123/2001 |
| 3. N.V. Ramana | LCID 124/2001 |
| 4. P. Rayudu | LCID 125/2001 |
| 5. Sheik Ameeruddin | LCID 126/2001 |
| 6. N. Ramesh | LCID 127/2001 |

- | | |
|-----------------------|---------------|
| 7. D. Prabhakar Reddy | LCID 128/2001 |
| 8. K. Vijay Kumar | LCID 129/2001 |
| 9. M. Nageswara Rao | LCID 130/2001 |
| 10. K. Babu Rao | LCID 131/2001 |
| 11. Ch. Gopi | LCID 132/2001 |
| 12. K. Srinivasa Rao | LCID 133/2001 |
| 13. K. Sarveswara Rao | LCID 134/2001 |
| 14. G. Nageswara Rao | LCID 135/2001 |
| 15. S. Krishna Sekhar | LCID 136/2001 |
| 16. G. Sambasiva Rao | LCID 137/2001 |
| 17. M. Pratap Reddy | LCID 138/2001 |
| 18. Sk. Khurusidmiya | LCID 139/2001 |
| 19. G. Seshu Babu | LCID 140/2001 |
| 20. K. Potu Raju | LCID 141/2001 |

C/o Sri William Burra,
Advocate, BI, 11-5-76,
Road No. 16, S.V. Colony,
Saroornagar, Hyderabad-35.

... Petitioners

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 1. The Group General Manager,
Oil and Natural Gas Corporation Ltd.,
Godavari Project,
New Jetty Building, Danavaipet,
Rajahmundry-533 105. | |
| 2. The President,
Godavari Industrial Workers,
Maintenance & Service Co-op.
Society Limited,
Rajahmundry. | |
| 3. The Ex-Servicemen Recruitment,
Co-ordinate Co-op Society Ltd.,
D. No. 44-15-11, Auto Centre,
Bypass Road,
Rajahmundry. | ... Respondent |

Appearances :

For the Petitioner : Sri William Burra,
Advocate

For the Respondent No. 2 : —

COMMON AWARD

These are the cases taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989

dated 3-8-1995 between Sri. U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. These cases are filed by Contract workmen alleging that it was a sham and nominal contract and this court numbered the 20 petitions as LCID Nos. 122/2001 to 141/2001. Notices were issued to R2 only and before notices were issued to R1 and R3, this Court suo motto stayed the cases till the disposal of other similar cases by Hon'ble High Court of A.P.

3. In view of the Judgement of the Hon'ble High Court passed an order in the WP No. 21925 of 2001 and batch and allowed the WP No. 21925/2001 and batch (71 batch cases of ONGC). The Hon'ble High Court held that this Court has got no jurisdiction and it further held, "It does not preclude the adjudication of the rights and entitlement of the contract labour if the same is brought before this Court (Central Govt. Industrial Tribunal-cum-Labour Court, Hyderabad) in accordance with the procedure under Sec. 10(1) read with Sec. 2(k) of the I.D. Act." As the Hon'ble High Court has allowed the writ petitions, hence, these petitions i.e. LCID Nos. 122/2001 to 141/2001 (20 cases) are also dismissed accordingly.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant, transcribed by her corrected and pronounced by me in the Open Court on this the 30th day of June, 2003.

E. ISMAIL, Presiding Officer

Appendix of Evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 सितम्बर, 2003

का. आ. 2746.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट्स ऑथोरिटी ऑफ इण्डिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या

166/2002 से 182/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-09-2003 को प्राप्त हुआ था।

[डायरी सं.-160, दि. 1/9/03]

बी. एम. डेविड, अवर सचिव

New Delhi, the 2nd September, 2003

S. O. 2746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 166/2002 To 182/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airports Authority of India and their workman, which was received by the Central Government on 01-09-2003.

[Dy. No. 160, Dt. 1/9/03]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT : AT
HYDERABAD

Present :—

Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 15th day of July, 2003

INDUSTRIAL DISPUTES L.C.I.D. Nos. 166 to 182/2002 (Batch cases)

Between

S/Sri

- | | |
|-----------------------|---------------|
| 1. Pola Satyanarayana | LCID 166/2002 |
| 2. Chintala Raju | LCID 167/2002 |
| 3. Syed Moinuddin | LCID 168/2002 |
| 4. K.K. Reddy | LCID 169/2002 |
| 5. N. Yadaiah | LCID 170/2002 |
| 6. M.V. Srinivas | LCID 171/2002 |
| 7. Amjad Ali | LCID 172/2002 |
| 8. Md. Akbar | LCID 173/2002 |

9. B. Srinivas LCID 174/2002
10. Yousuf Hussain LCID 175/2002
11. A. Manikyam LCID 176/2002
12. R.M. Gopal LCID 177/2002
13. R. Laxman LCID 178/2002
14. C.G. Krishna LCID 179/2002
15. L. Narender Goud LCID 180/2002
16. B.S. Rao LCID 181/2002
17. H.S. Reddy LCID 182/2002

C/o Sri R.S.R.S. Sarma,
H. No. 1-4-880/2/8, S.B.H. Colony,
Gandhinagar, Hyderabad-500 080.

AND

1. The Director,
Airports Authority of India,
Begumpet,
Hyderabad.

The Executive Engineer (Elec),
Airport Authority of India,
Begumpet Airport,
Hyderabad-16.

2. M/s. Hardeep Electricals,
Class I Labour Contractor,
Ameerpet, Hyderabad.

3. M/s. Ashwani Refrigeration
& Electricals,
Class I Labour Contractor,
202, Sriniliyam Apts.,
Mayuri Marg, Begumpet,
Hyderabad-16.

.....Respondents

Appearances :

- For the Petitioner : Sri R.S.R.S. Sarma,
Advocate
- For the Respondent : M/s. D. Hanumanth
Rao,
K. Manjula,
Ch. Srinivas &
B.G. Yadav,
Advocates

COMMON AWARD

These are the cases taken in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri. U. Chinnappa and M/s. Cotton Corporation of India and two others filed under Sec. 2 A (2) of the I.D. Act, 1947 before this Court. The LCIDs were numbered in this Tribunal as L.C.I.D. Nos. 166/2002 to 182/2002 and notices were issued to parties.

2. These cases are filed by Contract workmen alleging that it was a sham and nominal contract and this court numbered the 17 petitions filed by the above workmen as LCID Nos. 166/2002 to 182/2002 (17 cases). The same were challenged by the Respondent Counsel by filing I.A. Nos. 23/2002 and batch in all the 17 cases. The said I.As. were allowed holding that this Court has no jurisdiction in view of the ONGC batch cases Judgement of the Hon'ble High Court passed in the WP No. 21925/2001 and batch (in 71 writ petitions in ONGC batch cases) by order dated 21st day of January, 2003. Accordingly, it is held in that order that this Court has got no jurisdiction to entertain the petitions under Sec. 2 A(2), it further held, "It does not preclude the adjudication of the rights and entitlement of the contract labour if the same is brought before this Court (Central Govt. Industrial Tribunal-cum-Labour Court, Hyderabad) in accordance with the procedure under Sec. 10(1) read with Sec. 2(k) of the I.D. Act". The Petitioners are directed to approach the appropriate forum. These cases (17 cases) are accordingly disposed off.

Award passed accordingly. Transmit.

Dictated to Kunt. K. Phani Gowri, Personal Assistant, transcribed by her corrected and pronounced by me in the Open Court on this the 15th day of July, 2003

E. ISMAIL, Presiding Officer

Appendix of Evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 सितम्बर, 2003

का. आ. 2747.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड एयरलाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 76/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-08-2003 को प्राप्त हुआ था।

[सं.एल-11012/21/2002 आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 2nd September, 2003

S. O. 2747.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2002) of the Central Government Industrial Tribunal/Labour Court, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United Airlines and their workman, which was received by the Central Government on 29-08-2003.

[No. L-11012/21/2002-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT : NEW DELHI

Presiding Officer :

Shri B.N. Pandey

I.D. No. 76/2002

United Airlines Employees Welfare Association

(Shri G.K. Umesh),
B-1/1360, Vasant Kunj,
New Delhi-110070

—Workmen

Versus

United Airlines,
Amandeep Building,
14, Kasturba Gandhi Marg,
New Delhi-110001.

—Management

AWARD

The Central Government in the Ministry of Labour vide its order No. L-11012/21/2002-IR(C-1) dated 28-8-2002 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the demand of the United Airlines Employees Association that Shri Dinesh Gambhir, and 57 other workmen (list attached) be reinstated in service with full back wages and other benefits is legal and justified? If yes, workmen are entitled to what relief and if not the compensation given to them by the management is legal? If not what directions are necessary?"

2. In the present dispute a few workmen have already settled their dispute with the management amicably in the Lok Adalat held on 26-11-2002. Apart from them an application for withdrawal of dispute has been moved on behalf of all other workmen excepting six workmen named in the Annexure A to the withdrawal application. The

withdrawal application is not opposed by the A/R of the Management. Hence it deserves to be allowed. I also feel that the claim of the remaining six workmen named in the 'A' to the withdrawal application dated nil deserves to be dismissed for want of prosecution. It is also informed by A/R of the management that the case of Shri Sandeep Kapoor workman has also been settled between management and the workman outside the court and in view of that settlement the management has already paid Rs. 75,993/- to him.

3. In view of the above the claim of all the workmen, except those who have already compromised in the Lok Adalat or out side the court, is dismissed as withdrawn and the claim of those six mentioned in the annexure 'A' to the withdrawal application is dismissed for want of prosecution. The reference is answered and No Dispute Award is given accordingly.

B.N. PANDEY, Presiding Officer.

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2748.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अमोल पाटिल कंसट्रक्शन कं० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई नं० 2 के पंचाट (संदर्भ संख्या 80/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-09-2003 को प्राप्त हुआ था।

[सं.एल.-29012/23/2001-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2748.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 80/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Amol Patil construction Co. and their workman, which was received by the Central Government on 03-09-2003.

[No. L-29012/23/2001-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2:
AT MUMBAI

Present :

Shri S.N. SAUNDANKAR : Presiding Officer

Reference No. CGIT-2/80 of 2001**EMPLOYERS IN RELATION TO THE MANAGEMENT
OF M/S. AMOL PATIL CONSTRUCTION CO.**

M/s. Amol Patil Construction Co.,
Amol Patil Poultry Farm & Feed Plant,
At Bhokarpada, Barwai,
Opp. Larsen & Toubro Ltd.,
P.O. Poyanje,
Tal. Raigad.

V/s.

Their Workmen

Mr. Ankush Prabhakar Karanjkar,
At/Post/Tal. Khalapur,
Dist. Raigad.

APPEARANCES :-

For the Employer : No Appearance.
For the Workmen : Mr. Jaiprakash Sawant,
Advocate.

Mumbai, dated 14th August, 2003.

AWARD

The Government of India, Ministry of Labour by its order No. L-29012/23/2001-IR(M) dated 8-6-2001 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following Industrial Dispute to this Tribunal for adjudication :

"Whether the action of the management of M/s. Amol Patil Construction Co., Raigad in dismissing the services of Mr. Ankush Prabhakar Karanjkar, Helper w.e.f. 6-10-1999 is legal and justified? If not what relief the workman concerned is entitled to?"

2. Workman Karanjkar vide Statement of Claim (Exhibit-6) averred that he was employed by the Management Company as Helper w.e.f. 5-10-1995 and that he continuously worked in the Company however on 6-10-1999 without giving him notice, notice pay, retrenchment compensation and without holding inquiry he was terminated contrary to the provisions of Section 25 F of the Industrial Disputes Act and therefore his termination is illegal and unjustified. Workman therefore contended that the Management Company be directed to reinstate him in service with full back wages.

3. Management Company resisted the claim of workman by filing written statement (Exhibit-8) contending that workman was in the service from 5-10-1995 however, his work was not satisfactory and that he could not mend himself and that later on he tendered resignation on 31-3-1999 and that he was paid compensatory wages. It is averred that in May 1999 workman

again came for work however, he absented himself from 6-10-1999 and that he was given wages under vouchers for the work done by him and that nothing has remained to be paid to him consequently workman's contention that he was terminated against the provisions of the Industrial Disputes Act, is devoid of substance consequently his claim be dismissed with costs.

4. By the Rejoinder (Exhibit-9) workman reiterated the recitals in the Statement of Claim denying the averments in the Written Statement contending that he was constantly approaching the Company for work, however, he was refused to give work which amounts to illegal termination.

5. On the basis of pleadings following issues were framed at Exhibit-10;

Issues	Findings
1. Whether the action of the management of M/s. Amol Patil Construction Co., Raigad in dismissing the services of Mr. Ankush Prabhakar Karanjkar, Helper, and w.e.f. 6-10-1999 is legal and justified?	Neither legal nor justified.
2. What relief the workman concerned is entitled to?	As per order.

In connection with issues workman filed affidavit in lieu of Examination-in-Chief (Exhibit-12) stating that he worked continuously from 5-11-1995 however, he was terminated contrary to the provisions of the Industrial Disputes Act from 6-10-1999 consequently he is entitled to reinstate him in service with full back wages. From the Rojnama it is seen none remained present on behalf of management consequently the above said sworn testimony has gone unchallenged. Therefore relying on the sworn testimony, since the workman's dismissal is illegal and unjustified, it is proper to direct the Management Company to reinstate him in service with full back wages. Issues are answered accordingly and hence the order :

ORDER

The action of the management of M/s. Amol Patil Construction Co., Raigad in dismissing the services of Mr. Ankush Prabhakar Karanjkar, Helper, w.e.f. 6-10-1999 is neither legal nor justified.

Management is directed to reinstate him in service with full back wages and consequential benefits.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2749.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कार्पो. लि., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई नं० 2 के पंचाट (संदर्भ संख्या 7/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-09-2003 को प्राप्त हुआ था।

[सं.एल.-30011/53/2002-आई आर (विविध)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroleum Corpn. Ltd., and their workman, which was received by the Central Government on 03-09-2003.

[No. L-30011/53/2002-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

Present :

Shri S. N. SAUNDANKAR : Presiding Officer

Reference No. CGIT-2/7 of 2003

EMPLOYERS IN RELATION TO THE MANAGEMENT OF HINDUSTAN PETROLEUM CORPORATION LIMITED

(1) The General Manager (P&A),
Hindustan Petroleum Corporation Limited,
Refinery Division,
Bhikaji Damaji Patil Marg,
Mahul,
Mumbai-400 074.

(2) M/s. Subash Gardens

The Managing Partner,
M/s. Subash Gardens,
Shivram Building,
Aziz Baug,
Mahul Road,

Chembur,
Mumbai-400 074.

V/s.

Their Workmen:

The Secretary,
Mumbai Shramik Sangh,
Sangharsh,
Quarry Road,
Bhandup (West),
Mumbai-400 078

APPEARANCES:

For the Employer
No. 1

: Mr. B.D. Birajdar,
Advocate.

No. 2
For the Workmen

: No Appearance.
: No Appearance

Mumbai, dated 13th August, 2003.

AWARD

The Government of India, Ministry of Labour by its order No. L-30011/53/2002-IR(M) dated 4-2-2003 in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the following Dispute to this Tribunal for adjudication :

"Whether the 51 contract workmen employed by M/s. Subash Gardens, a contractor engaged by HPCL, Mumbai are entitled for leave with wages? If not, to what relief the workmen concerned are entitled?"

2. On perusal of the record it is seen both the management and the union served with the notice (Exhibit-2). However, none appeared on behalf of the union till today nor filed statement of claim though sufficient time given, which indicates Union is not interested in prosecuting the reference therefore the reference deserves to be disposed of and hence the order :

ORDER

Reference stands disposed of for non-prosecution.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2750.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कार्पो. लि., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार श्रम न्यायालय, पूना के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-09-2003 को प्राप्त हुआ था।

[सं. एल.-30011/87/2000-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2750.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroleum Corpn. Ltd., and their workman, which was received by the Central Government on 03-09-2003.

[No. L-30011/87/2000-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE SHRI R. B. PATLE : INDUSTRIAL
TRIBUNAL : PUNE

Reference (IT) No. 17 of 2001

Between :

M/s. Hindustan Petroleum : First Party.
Corporation Limited.

And

The workmen employed under : Second Party
them.

In the matter of : Payment of bonus/
ex-gratia to the
workmen.

Appearances :

Shri A. K. Gupta : For the First Party
Smt. R. J. Todankar : For Second Party

AWARD

(Dated : 28-7-2003)

1. Vide letter dt. 1-6-2001 from Government of India, Ministry of Labour, Office of the Asstt. Labour Commissioner, present reference is received by this Tribunal. The demand under reference is "whether the demand of the Petroleum Employees Union that the workmen (as per Annexure attached) are entitled for the bonus/exgratia as mentioned against their names according to the number of days put in by them in service is legal and justified ? If yes, then to what relief the employees are entitled to?"

2. The enclosed papers shows names of 26 workmen claiming exgratia amount of 20%.

3. On notice, the second party union submitted statement of claim at Exh. U-1 and justified the demands under reference. However, vide application Exh. U-5, second party submitted that the dispute scheduled in the letter No. L-30011/87/2000 by the Central Government is being adjudicated by Presiding Officer, Central Government

Industrial Tribunal No. 2, Mumbai and management is participating in the said proceeding. It was prayed that this reference be closed.

4. First Party has not appeared and made any submissions in this matter. In view of application Exh. U-5, as a dispute is being adjudicated before the Central Government Industrial Tribunal No. 2, Mumbai, present reference need not be adjudicated. Hence I pass the following Award.

AWARD

The reference stands disposed as it is being adjudicated by Central Government Industrial Tribunal No. 2, Mumbai.

Dt. 28-7-2003

R.B. PATLE, Industrial Tribunal, Pune

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2751.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/57 का 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-09-2003 को प्राप्त हुआ था।

[सं.एल.-12011/24/2000-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 3rd September, 2003

S.O. 2751.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 2/57 of 2000 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 02-09-2003.

[No. L-12011/24/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2, MUMBAI
S. N. SAUNDANKAR

PRESENT :

Presiding Officer :

Ref. No. CGIT-2/57 of 2000

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF BANK OF MAHARASHTRA

The Regional Manager,
Bank of Maharashtra,
Raigad Region,
Mahabank Bhavan,
B-37, Wagle Industrial Estate,
Thane-400 604.

Vs.

Their Workmen

The General Secretary,
Bank of Maharashtra karmachari Sena,
77, Yashodha Nivas,
Shivaji Park, Dadar,
Mumbai, 400028.

APPEARANCES :—

For the Employer : Mr. A.P. Nayak,
Representative
For the Workmen : Mr. Jaiprakash Sawant,
Advocate.

Mumbai, dated 14th July, 2003.

AWARD

The Government of India, Ministry of Labour by its Order No. L-12011/24/2000/IR(B-II) dtd. 16-6-2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Bank of Maharashtra is not regularising the employment of Shri Vikas V. Karadkar as Sub-staff w.e.f. 1-12-1993 is legal and justified? If not, what relief the workman is entitled to?”

2. Workman Karadkar is employed as part-time Sweeper by the Bank of Maharashtra, Pen Branch, Raigad District from 20-10-1991. Vide Statement of Claim (Exhibit-5) workman pleaded that he was confirmed in the said post on 22-4-1992 and that he has been working in the said post till to date. According to the workman since 1-12-1993 to 3-2-1999 in addition to part-time Sweeper, he worked in clear vacancy as full time sweeper and that he was getting regular pay for the work of full time Sweeper as well as the pay restricted to 1/3rd as part time. It is averred by the workman that though he worked continuously for long period from 1-12-1993 to 3-2-1999 as full time Sweeper against the clear vacancy, the management on 4-2-1999 discontinued him bringing another sub-staff on deputation from another region to work in his place without regularising him as full time Sweeper and that this action of the management is illegal and unjustified. Workman therefore contended to direct the management Bank to regularise him as regular full time Sweeper from 1-12-1993 and pay him back wages with consequential benefits.

3. Management Bank resisted the claim of workman by filing Written Statement (Exhibit-7) contending that workman was asked temporarily to work as full time Sweeper in addition to part-time Sweeper considering his financial position and the social back ground since regular post

was vacant. It is pleaded that workman was paid regular wages as full time Sweeper and the restricted wages as part time and that considering his service as part-time Sweeper he has been empanelled at Serial No. 5. It is averred as per policy of the Bank, the workman would be regularised as full time Sweeper considering the seniority on Regional basis. It is the contention of Bank that additional regular full time sub staff Shri Devidas Ranpise joined the branch therefore the workman as full time sub staff was discontinued from 4-2-1999. It is contended without considering the seniority workman cannot be allowed to work as regular sub staff, therefore the workman's case to regularise him from 1-12-1993 as full time Sweeper is devoid of substance and therefore his claim be dismissed.

On the basis of pleadings issues were framed at Exhibit-11 and in that context Union filed affidavit in lieu of Examination-in-Chief of Joint Secretary Mr. Shukla (Exhibit-16) and the workman Mr. Karadkar (Exhibit-18) and closed oral evidence vide purshis (Exhibit-19). In rebuttal, Manager (Staff Department) Mr. Fulzele filed affidavit (Exhibit-20) and the management closed evidence vide purshis (Exhibit-22).

5. Union filed written submissions (Exhibit-23) and the management Bank (Exhibit-24) with copies of rulings (Exhibit-25). On perusing the record and hearing the representative for both sides, I record my findings on the issues for the reasons mentioned below :

Issues	Findings
1. Whether the action of the management of Bank of Maharashtra in not regularising the employment of Shri Vikas V. Karadkar as sub-staff w.e.f. 1-12-1993 is legal and proper?	Yes.
2. What relief Mr. Karadkar is entitled to?	As per order below.

REASONS

6. Admittedly workman Karadkar was engaged as part-time Sweeper in the Bank at Pen Branch in the year 1991 and that he was confirmed in that capacity in the year 1992 and that he worked as full time Sweeper with regular pay from 1-12-1993 to 3-2-1999 in addition to the work of part-time Sweeper restricted to 1/3rd wages. According to workman since he worked as full time Sweeper for a long period i.e. 1993 to 1999 the Bank should have regularised him as full time Sweeper from 1-12-1993, instead bringing another full time Sweeper in the branch. The General Secretary of the Union Mr. Shukla supported the said statement of workman. Manager Fulzele deposed that absorption from part-time Sweeper to full time Sweeper is done whenever there is a sanctioned post in the region and as per Banking Rules and Guidelines the senior most

part-time Sweeper is to be absorbed as full time Sweeper as per educational qualifications and seniority and that in the empanelled list workman stands at Serial No. 5, therefore without ignoring the seniority of his superiors, workman cannot be absorbed as full time Sweeper and that he will be absorbed as full time Sweeper on regular basis as per his standing in the seniority list. Workman Karadkar and Shukla both admitted that posting is not given to the candidates below the workman who stands at Serial No. 5 in the regional seniority list and that candidates at Serial No. 1 to 4 still work as part time. Point as to regularisation has been elaborated by Their Lordships of Supreme Court in Ashwani Kumar and Ors. Vs. State of Bihar and Ors. AIR 1997 SC 1628 :

“Question of regularisation in any service including any Government service may arise in two contingencies. Firstly if on any available clear vacancies which are of a long duration appointments are made on ad hoc basis or daily wage basis by a competent authority and are continued from time to time and if it is found that the concerned incumbents have continued to be employed for a long period of time with or without any artificial breaks, and their services are otherwise required by the institution which employs them, a time may come in the service career of such employees who are continued on ad hoc basis for a given substantial length of time to regularise them so that the concerned employees can give their best by being assured security of tenure. But this would require one precondition that the initial entry of such an employee must be made against an available sanctioned vacancy by following the rules and regulations governing such entry. The second type of situation in which the question of regularisation may arise would be when the initial entry of the employee against an available vacancy is found to have suffered from some flaw in the procedural exercise though the person appointing is competent to effect such initial recruitment and has otherwise followed due procedure for such recruitment. A need may then arise in the light of the exigency of administrative requirement for waiving such irregularity in the initial appointment by competent authority and the irregular initial appointment may be regularised and security of tenure may be made available to the concerned incumbent. But even in such a case the initial entry must not be found to be totally illegal or in blatant disregard of all the established rules and regulations governing such recruitment. In any case back door entries for filling up such vacancies have got to be strictly avoided. However, there would never arise any occasion for regularising the appointment of an employee whose initial entry itself is tainted and is in total breach of the requisite procedure of recruitment and especially when there is no vacancy on which

such an initial entry of the candidate could ever be effected. Such an entry of employee would be remain tainted from the very beginning and no question of regularising such an illegal entrant would ever survive for consideration, however competent the recruiting agency may be.”

Their Lordships ruled that without existing vacancy there cannot be regularisation. In the case in hand, workman was not regularised as there was no vacancy on regional basis and that senior part-time Sweepers were still to be absorbed as full time Sweepers considering seniority. Admittedly workman is at Serial No. 5 and that candidates above him are to be regularised therefore hardly lie in his mouth to absorb him as full time Sweeper only because he worked in the vacancy of full time Sweeper with full wages, ignoring the seniority of other Sweepers on empanelled list. In this context, action of the management in not regularising the workman as full time Sweeper ignoring the seniority of others is totally legal and justified. However, the management Bank can very well be directed to absorb the workman as full time Sweeper as per his seniority as early as possible since according to manager Mr. Fulzele post of full time-sub-staff is still vacant. Issues are therefore answered accordingly and hence the order :

ORDER

The action of the management of Bank of Maharashtra in not regularising the employment of Shri Vikas V. Karadkar, part-time Sweeper as full-time Sweeper w.e.f. 1-12-1993 is legal and justified. However, Bank to regularise him who is on Waiting list of full time Sweeper at Serial No. 5 as early as possible since regular vacancy of full time Sweeper exists.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2752.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अलपूजा पंचाट [संदर्भ संख्या 104/2000 (सी)] को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-09-2003 को प्राप्त हुआ था।

[सं.एल.-12012/89/2000-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 3rd September, 2003

S.O. 2752.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 104/2000 (C) of the Industrial Tribunal, ALAPUZHA (Kerala) as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workman,

which was received by the Central Government on 02-09-2003.

[No. L-12012/89/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL:

ALAPPUZHA

(Dated this the 11th day of August, 2003)

SHRIK. KANAKACHANADRAN INDUSTRIAL TRIBUNAL

I. D. No. 104/2000(C)

Between

The Central Bank of India, The Regional office, GEO Towers, Pallimukku, Cochin-16

And

The Workman of the above Bank represented by Smt. V. P. Prabhadevi, D/o. Reghavan Pillai Chooranollil House, Devagiri P.O. Kottayam-686 555

Sri VV Sidharthan,
Advocate. Valanjambalam,
Chittoor Road, Ernakulam,
Kochi-16

For Management

M/s. H. B. Shenoy and
Ashok B. Shenoy,
Advocates, "Vatsal",
Cochin-35

... For Workman

AWARD,

The Government of India by their reference order No. L-12012/89/2000-IR(B-II) dated 24-8-2000 had referred the following issues for adjudication :

"Whether the action of the management of Central Bank of India in relation to their Devagiri Branch in terminating the services of Smt. V.P. Prabha Devi, Safai Karmachari w.e.f. 11-9-1996 is justified? If not, to what relief she is entitled to?"

2. In the statement of claim filed by the concerned worker it is contended that she was employed as a Safai Karmachari (Sweeper) in Devagiri branch of the management Bank on 24-11-1998. At the time of her employment, she was not given any appointment letter or order. From the very beginning, she was working in the permanent vacancy of Safai karmachari. While working, she was occasionally asked to do the duties of Peon also. Though she was working in a permanent vacancy, she was denied of basic benefits to which a regular hand was entitled. She was all along treated as temporary employee. In view of her continuous employment, she made request

to the management to appoint her regularly in the permanent vacancy. But instead of doing anything on that behalf her services were terminated on 11-9-1996. According to the worker, such action on the part of the management was violative of Sec. 25-F and also the provisions of all India Awards and Bipartite settlements prevailing in the banking industry. That apart, while retrenching her from service, the management had not complied with the minimum conditions laid down in paras 522, 523 and 524 of the Sastry Award. Moreover, while retrenching her, many of her juniors were retained and some of them were even regularised in service. Therefore such action on the part of the management is violative of Sec. 25-G and 25-H of the I.D. Act also. She was treated all along as a temporary worker only to deprive her the status and privileges of a permanent worker. She was not allowed to sign the attendance register and the management had not maintained any service records also in respect of her. It is further stated that the management had conducted a written test or the absorption of temporary workmen in the permanent cadre on 4-3-1992. But the worker was not given a chance to appear for that test. After the test and interview some of them were appointed as regular peons/sub staff in the permanent cadre. There was no reason to deny her even a chance for appearing for a test and interview. Only the persons who were in the liking of management were called for test. In fact she was eligible for absorption/regularisation even without any test and interview in terms of the earlier Circulars No. C. 622 dated 12-3-1991 and Circular No. Co. 93-94:234 dated 20-9-1993. She had satisfied all the conditions prescribed in those circulars because, she had to her credit 240 days of service in 12 consecutive months. Therefore the termination of service in her case on 11-9-1996 was illegal and unjustifiable. As she is the sole bread winner of her family, the retrenchment had put her in several kinds of difficulties. Therefore her plea is for a declaration that the retrenchment effected in her case was illegal and therefore she is entitled for reinstatement in service with full backwages.

3. The management in their written statement had denied all the claims made by the worker concerned. According to them she is not entitled to seek any kind of relief. Since her appointment was not in terms of All India Awards and Bipartite settlement, there was no need for any kind of termination also in her case. It is further stated that the concerned worker was never employed for a long time as Safai Karmachari in Devagiri Branch. Therefore her claim that she was an employee from 24-11-1988 is of no basis. One V.P. Ponnamma was the Safai Karmachari during the relevant period. The above said Ponnamma was appointed as a part time safai Karmachari in the branch on 1-7-1988 and she was, continuously working there till 4-1-1992. Thereafter one K. Vijayamma was posted as Safai Karmachari and she worked there for the period from 27-7-1992 to 31-1-1994. However the Devagiri branch was functioning without

a permanent Safai Karmachari from 1-2-1994 to 10-9-1996. During this break period, several casual workers were employed as Safai Karmachari on daily wage basis. During that period, on certain occasions, the workers concerned was also casually engaged. The management had given the details of the number of days she worked in the years 1995 and 1996 and as per which, from July to December 1995 she worked for only eight days whereas in 1996 she had worked only for six days in the month of February and March 1996. Since she was not in continuous employment and had not satisfied in any of the conditions stipulated in Sec. 25-F of the I.D. Act, there was no obligation on the part of the management to comply with the provisions contained in Sec. 25-F of the I.D. Act. The allegation that while retaining her juniors, her services were terminated is also denied by the management. If at all anybody had been appointed as Safai Karmachari on permanent basis, that was strictly in accordance with the Rules and guidelines issued in this respect from higher authorities. Regarding her entitlement for automatic regularisation in accordance with two Circulars of the Bank it is contended that even for such regularisation, the worker was not entitled. As per the guidelines issued in the Circular No. C. 622 dated 12-3-1991, only temporary employees who have put in 240 days of temporary service in any continuous period of 12 months in a period after 1-1-1982 upto 31-12-1990 alone could be considered for absorption in the immediate available vacancies without any test or interview. In the same circular in paragraph (4) it is stipulated that only the candidates who worked for 180 days in between 1-1-1987 and 24-12-1990 and had registered their names with Employment Exchange and also the candidates who had worked for 60 days in any one year and whose names were sponsored by the Employment Exchange could be given opportunity to appear for written test and interview. Since the worker did not satisfy any of the regulatory conditions, she was not entitled for any kind of absorption also. That is in sum and substance the contentions raised by the management to reject the pleas made by her.

4. The workman filed a reply statement disputing various contentions raised in the written statement of the management. The claim of the management that in the absence of a permanent Safai Karmachari several casual workers were employed and she was only one among them is totally denied by the worker. When she was working almost continuously, the management purposely caused some break in her continuous employment and that was with the purpose of denying her any kind of benefit in future.

5. Before the starting of evidence the worker had filed a petition calling for production of various Circulars of the management and also certain communications sent from the Devagiri Branch to the Regional Office of the management Bank. In that she made request for production of registers which were to be maintained in terms of para

493 of the Sastri Award and one of such Register is P&R miscellaneous daily wages Registers which was maintained in the Devagiri branch during the period from 24-11-1988 and 11-9-1996. She made request for production of debit slip/vouchers of all daily wages also of the above said period. To that petition, the management filed an objection. However they filed a memo by producing only few of them. As per that memo, only 114 vouchers of daily wages paid during the period from 1988-93 were produced. Another set of vouchers totalling 60 for the period up to 96 were also produced. A perusal of those vouchers will show that there is no details of the recipients. The exact purpose of each payment is also not deductible from those.

6. The worker tendered evidence explaining her contentions projected in her claim statement. She has admitted that there was some kind of break to her service for the period upto February 1994 and thereafter she was having continuous employment till her services were terminated on 11-9-1996. Apart from the work of a sweeper, she was making tea also in the branch for giving it to the Bank staff. She has admitted in the cross-examination that during the year 1998 she had worked only for three or four days. According to her, she was told in 1996 that she would be called when necessity arose.

7. On the side of management the Branch Manager who worked in the Devagiri Branch during the period from 1992 to 1996 was examined. He has admitted that from February 1994 to 1996, there was no permanent Safai Karmachari in the Devagiri branch. According to him during the above period several casual workers were engaged to do the work of Safai Karmachari on daily wages. In his estimation, only 14 days the worker herein had worked during the year 1995-96.

8. From the evidence adduced by the worker herself one thing is clear. Her claim that she was in continuous employment from 24-11-1982 is of no basis. The evidence tendered by her is to the effect that in 1984 she had worked only three or five days and then after she was called only in the year 1991. The possibility is only for her employment after the date of relieving of K. Vijayamma on 31-1-1994. Therefore for the period upto 31-1-1994, the chances for casual employment were only for few days that too when regular incumbents were on leave. But there was every chance for her continuous employment from 1-2-1994 to 10-9-1996, because, during that period there was no regular incumbent. The fact that there was no regular incumbent is clearly stated by the management in their written statement itself. In that situation the only conclusion possible is that there was every probability of her being in employment for the period from 1-2-1994 to 10-9-1996. Because, it is very difficult to presume that the branch was managing without a Sweeper for about 2½ years. The total number of vouchers produced by the management were of relating to only 70 in respect of the period from 1993 to 1996. Even

assuming that some other persons were also casually employed, that can be only for a lowest minimum number of days. It is quite impossible for a Bank to function without any sweeping work for such a long time. Therefore in the absence of a regular hand, there was every possibility of employing someone temporarily from 1-2-1994 to 10-9-1996. Even the few vouchers produced by the Management do not support their case. Hence the worker concerned might have worked in between 1-2-1994 and 10-9-1996. In such a situation, the termination effected in her case can only be declared as illegal and that is in view of the fact that there was every possibility of her satisfying the specified condition of service stipulated in Sec. 25-F on account of her work in between 1-2-1994 to 10-9-1996. In that case the retrenchment effected in her case was violative of Sec. 25-F of the I.D. Act. She was entitled for notice pay and compensation at that time as stipulated in Sec. 25-F of the I.D. Act. As a necessary corollary it is also to be concluded that she would deem to be in service till her service is validly terminated. However her claim for regularisation in service cannot be sustained.

9. Award is passed accordingly. (Dated this the 11th day of August, 2003)

K. KANAKACHANDRAN, Industrial Tribunal

Appendix

I.D. No. 104/2000

Witness examined on the side of the Management:

MW1 : Mohan Das
MW2 : Surendran Nair

Witness examined on the side of the workman :

WW1 : V.P. Prabha Devi

Exhibits marked on the side of the Management:

- M1 : List of applicants for the post of Safai Karmachari sent from the Town Employment Exchange, Chenganassery to the Management.
M2 : Copy of the appointment order No. Misc. 6/88/137 dated 20-7-88 issued by the management to Smt. V.P. Ponnammamma.
M3 : Copy of memorandum dated 17-12-91 issued -by the management to Smt. V.P. Ponnammamma.
M4 : Copy of the appointment order dated 15-7-92 issued by the management to Smt. K. Vijayamma.
M5 : Staff record of Smt. K. Vijayamma maintained by the management.
M6 : Transfer Order dated 17-1-94 issued from the Regional Office, Cochin to the Devagiri Branch of the management Bank.

Exhibits marked on the side of the Workmen :

W1 : Copies of the Circular dated 13-3-90, (Series 18-9-90 and 18-2-91 issued from the Regional Office, Cochin to the all Branches in Cochin and Trivandrum Region of the management Bank.
3 Nos.)

(Dated this the 11th day of August, 2003)

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2753.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/भ्रम न्यायालय नं.-2, मुम्बई के पंचाट (भाग-I) (संदर्भ संख्या 2/81 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-9-2003 को प्राप्त हुआ था।

[सं० एल- 12012/49/2001-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Part-I) (Ref. No. 2/81 of 2001) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India and their workman, received by the Central Government on 2-9-2003.

[No. L-12012/49/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 : MUMBAI

PRESENT:

S.N. Saundankar, Presiding Officer

REFERENCE NO. CGIT-2/81 OF 2001

EMPLOYERS IN RELATION TO THE MANAGEMENT OF UNION BANK OF INDIA

The Deputy General Manager (P),
Union Bank of India,
Central Office,
Vidhan Sabha Marg,
Nariman Point,
Mumbai-400 021

V/s.

Their Workmen

Shri Ramchandra B. Bhagat,
Sahayadri Nagar No. 1,
Chawl No. 1/B, Room No. 2,
Near Birla College,
Kalyan (West),
Dist. Thane.

APPEARANCES:

For the Employer : Mr. A.K. Jalisatgi,
Advocate.

For the Workman : Mr. K.S. Kalappura,
Advocate.

Mumbai, dated 10th June, 2003

AWARD**PART-I**

The Government of India Ministry of Labour by its Order No. L- 12012/49/2001/I.R.(B-II) dated 18/22-6-2001 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 have referred the following dispute to this Tribunal for adjudication:—

“Whether the action of the management of Union Bank of India, Mumbai by dismissing Shri Ramchandra B. Bhagat from the service of the Bank vide Order dated 14-3-1999 is justified and proper? If not, then what relief the workman is entitled to?”

2. Workman Bhagat was employed in the Union Bank of India Branch Mumbai as Bill Collector in the year 1981. Vide Statement of Claim (Exhibit-7) workman pleaded that in the year 1998 while working as Bill Collector in Bank's Currency Chest attached to Mumbai Main Office Branch he was issued charge sheet dated 31-12-1998 alleging that he forged the signatures of the then Officer In-charge and other two sureties viz. Nagwekar and Laxman Singh thereby behaved in a manner unbecoming of a bank employee which he had replied however dissatisfied with that management initiated a domestic inquiry against him. It is the contention of workman that inquiry conducted against him was against the Principles of Natural Justice and fair play and that the findings recorded by the Inquiry Officer are perverse in as much as he was not allowed to represent his case through his union representative though he frequently requested, he was not given sufficient opportunity to study the documents to prepare his defence, charges levelled against him were not clear and therefore he did not understand the same and that the Inquiry Officer even did not explain the act of alleged misconduct on his part and that the inquiry was closed hurriedly. It is averred by the workman that the Inquiry Officer without getting the disputed signatures examined through handwriting expert held him guilty by

the report dated 30-3-1999 and that based on the said report, the disciplinary authority dismissed him by the order dated 14-5-1999. It is contended that workman had preferred appeal against the order of dismissal however that was turned down by the Appellate authority on 12-11-1999. According to workman Inquiry Officer recorded the findings though there was no evidence on record and therefore the findings are perverse, consequently inquiry vitiates and therefore the same be set aside.

3. Management Union Bank of India resisted the claim of workman by filing written statement (Exhibit-9) contending that workman forged the signatures of Mistry and the sureties viz. Nagwekar and Laxman Singh on his loan application which amounted to serious misconduct under the banking rules and therefore charge sheet was issued to him on 31-12-1998 mentioning therein that his act of wilful insubordination or disobedience amounts to breach of rule of business of the Bank is prejudicial to the interest of the Bank. It is averred that the workman admitted on making the forge signatures and that recording the same, the Inquiry Officer held him guilty by the report dated 30-3-1999. According to the Bank, Inquiry Officer had explained the charges which were clear and that understanding the same workman had admitted the same. It is pleaded that Shri R.A. Bhosle Organising Secretary of the Union Bank Karmachari Sena represented the workmen and that giving sufficient opportunity inquiry was completed. It is contended Inquiry Officer recorded the findings based on the evidence and the documents on record, therefore inquiry being fair and proper does not call for interference.

4. On the basis of pleadings preliminary issues were framed at Exhibit-12 and in that context workman Bhagat filed affidavit in lieu of Examination-in-Chief (Exhibit-13) and closed oral evidence vide purshis (Exhibit-14). In rebuttal Senior Manager (Personnel) Mr. Pawar filed affidavit (Exhibit-16) and the management closed evidence vide purshis (Exhibit-17).

5. On perusing the record and hearing the Learned Counsels I record my findings on the following preliminary issues for the reasons mentioned below :

Issues	Findings
1. Whether the domestic inquiry conducted against the workman was as per the Principles of Natural Justice?	Yes
2. Whether the findings of the Inquiry Officer are perverse?	No

REASONS

6. Admittedly domestic inquiry was initiated against the workman, however according to him inquiry was not proper in as much as he was not allowed to represent through his Union representative, he was not given sufficient opportunity to defend his case, charges framed against him were not explained to him and that those were vague and ambiguous. It is further the contention of workman that he had given loan application however the Inquiry Officer did not understand under which circumstances he had made signatures of the concerned on the said application so called forged signatures and the motive of the officer in charge was apparently to have the control of his borrowings, therefore the findings are not based on the documents and evidence on record and therefore are biased. At this juncture it is relevant to quote the decision of Their Lordships of the Apex Court in *sur Enamel and Stamping Works V/s. Their Workmen*, 1963 II LLJ SCC pg. 367, ruled that enquiry cannot be said to have been properly held unless :

- (1) the employee proceeded against has been informed clearly of the charges levelled against him;
- (2) the witnesses are examined-ordinarily in the presence of the employee in respect of the charges;
- (3) the employee is given a fair opportunity to cross examine the witnesses;
- (4) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter; and
- (5) the Inquiry Officer records his findings with reasons for the same in his report.

7. So far charges which according to workman were not explained and vague he admits in cross-examination para 10 that he had understood the same. On plain reading of the charge-sheet dated 31-12-1998, pg. 5/6 (Exhibit-11) clearly depict in detail. It is to be noted that the Representative of the workman in his summation in detail mentioned on the charges pg. 15/16 (Exhibit-11) therefore hardly can be said that the charges were vague and not understood to the workman. So far not allowing to engage Union representative as Defence Representative, workman admits that Mr. Bhosle as Defence Representative participated in the inquiry who was Union Secretary, made signatures on the inquiry proceedings (Exhibit-11). Inquiry Officer Mr. Pawar disclosed that on the day of hearing of inquiry on 6-3-1999 the workman in the presence of his Defence Representative admitted on making signatures on the loan application form which infact should have been signed by the In-charge Mr. Mistry and the co-employees viz. Laxman Singh and A.N. Nagwekar.

On plain reading of the defence statement pg. 15/16 (Exhibit-11) admittedly signed by workman and his Defence Representative Mr. Bhosle, clearly throw light on the signatures for which he was chargesheeted. It is significant to note that Inquiry Officer Mr. Pawar not only acted upon the admission of workman but, had compared the signatures with the original documents. It is well settled in *Instrumentation Ltd., V/s. Presiding Officer, Labour Court and Anr.* 1988 II LLJ 222 that no domestic inquiry is necessary if the workman admits the charges. In the case in hand though workman admitted on making signatures of the persons concerned the Inquiry Officer giving him opportunity recorded the findings on 30-3-1999. It is not that immediately after admitting the forged signatures the inquiry was concluded. Their Lordships of the Supreme Court in *Lalit Popli V/s. Canara Bank and Ors.*, 2003 SCC (L&S) 353 ruled that :

"Authorities can compare the admitted writing with the disputed writing and come to their own conclusion."

Under the circumstance hardly at this stage workman can deny of not pleading guilty. It is seen from the record workman was heard by the Disciplinary Authority before imposing the punishment and that the Appellate Authority also gave hearing to the workman and his Defence Representative Mr. Rajan Tulaskar. Even from the representation to the Appellate Authority it emerges that workman made signatures as he was in need of money and that his intention was not to defraud. Whatever be the intention, in the domestic inquiry, the Inquiry Officer considering the facts recorded the findings. Workman had engaged Defence Representative Mr. Bhosle who was Union Secretary in the domestic inquiry and Mr. Tulaskar before the Appellate Authority therefore there is no substance in the contention of workman that he was not allowed to defend through union representative.

8. The Learned Counsel Mr. Kalappura for the workman submits that principles of natural justice have not been followed and therefore inquiry vitiated. No tailor made procedure is to be adopted in a domestic inquiry. The question whether the principles of natural justice have been violated or not is to be found out on consideration as to whether procedure adopted by the appropriate authority is in accordance with the law or not, whether the delinquent knew the charges he was going to face, whether he was given opportunity to state his case and whether the authority acted in good faith. On perusal of the inquiry proceedings it is apparent that workman was informed clearly on the charges and that he was given sufficient opportunity, therefore no prejudice appears to have been caused. It is to be looked at from the angle of justice or of natural justice. the object of principles of natural justice is to ensure that justice is done; they are but the means to achieve the ends of justice. Workman himself confessed before the Inquiry Officer of making signatures of the

persons concerned on the loan application as he was in need of money itself throw light on the point and that the Inquiry Officer on the basis of the confession and the record, arrived at the conclusions, therefore the inquiry cannot be faulted on any of the grounds discussed supra. thus inquiry conducted against the workman was as per the principles of natural justice and the findings are not perverse consequently inquiry does not vitiate. Issues are answered accordingly and hence the order :

ORDER

The domestic inquiry conducted against the workman was as per the principles of natural justice.

The findings of the Inquiry Officer are not perverse.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2754.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल० आई० सी० ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं०-2, मुम्बई के पंचाट (भाग-1) (संदर्भ संख्या 2/51 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-9-2003 को प्राप्त हुआ था।

[सं० एल- 17011/1/2001-आई. आर. (बी.-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Part-I) (Ref. No. 2/51 of 2001) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the management of LIC of India and their workman, received by the Central Government on 2-9-2003.

[No. L-17011/1/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 : MUMBAI

PRESENT: S. N. SAUNDANKAR, Presiding Officer

Reference No. CG IT-2/51 OF 2001

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF LIFE INSURANCE CORPORATION OF INDIA

The Zonal Manager,
Life Insurance Corporation of India,
Western Zone,

Yogakshema East wing,
Jeevan Beema Marg,
Mumbai-400 021.

V/s.

Their Workmen

The Secretary,
Bhartiya, Jivan Bima Nigam,
Chaturth Sreni Karmachari Sangh,
Yogakshema,
Mumbai-400 021.

APPEARANCES :

For the Employer : Mr. V. W. Bapat,
Representative.

For the Workman : Mr. S. V. Desai,
Workman in person.

Mumbai, dated 11th July, 2003

AWARD PART-I

The Government of India Ministry of Labour by its Order No. L-17011/1/2001/IR(B-II) dated 26-4-2001 in exercise of the powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of LIC of India, in relation to Sr. Divisional Manager-I Mumbai division, imposing the punishment of censure to Shri S. V. Desai, Record Clerk, Planning Department, Mumbai Divisional Office-I and deferring one stagnation increment due from 1-9-1997 is legal and justified? If not, what relief the workman is entitled to?”

2. Workman Desai in the year 1993 was working as Record Clerk in the Planning Department of Life Insurance Corporation, Mumbai. Vide Claim Statement (Exhibit-4) Union contended that workman with great risk raised to the cadre of Clerk from that of Peon though discharging his duties sincerely, Corporation issued him charge-sheet dated 23-12-1993 alleging that on 4-12-1993 at about 1.50 p.m. by unauthorisedly entering in the cabin of the Regional Manager, Mr. Tripathi, workman Desai along with staff instigating the staff members shouted, abused, him in filthy language by switching off electric lights and AC and closing the window of the cabin, wrongfully confined him along with other officers and that they threatened and caused injury to Tripathi violating the provisions of Regulation-21.24 & 39(1) of the Life Insurance Corporation Regulation, 1960. It is pleaded that workman replied the charge-sheet on 13-1-94 however dissatisfied with that, the Disciplinary Authority, initiated domestic inquiry against him by appointing Mr. Vittala as the Inquiry Officer

and Mr. Savur as Presenting Officer. It is pleaded that the inquiry conducted against the workman was contrary to the Principles of Natural Justice and fair play and that findings recorded by the Inquiry Officer are perverse in as much as, charges were vague and uncertain, he was not given copies of the letters relied by the management, proceedings were not recorded as per the happenings. It is pleaded that workman was given permission to engage Mr. Chandrasekharan as Defence Representative at a late stage and consequently he could not defend him properly. It is contended that Inquiry Officer without giving sufficient opportunity proceeded further and that the witnesses examined by the management though did not disclose on his presence at the place of incident concluded that he was present which was against the record and therefore the findings being not based on record, are perverse. It is averred that the Inquiry Officer by his report dated 12-7-1996 found him guilty and that the Disciplinary Authority based on the report imposed penalty of reduction of basic pay by two stages by the order dated 25-11-1997 however the Appellate Authority by order dated 29-12-1997 reduced the same to censure. The Union/Workman therefore contended that inquiry being unfair the penalty imposed be set aside.

3. Management Corporation resisted the claim of union/workman by filing Written Statement (Exhibit-5) contending that under Regulation-21 every employee of the Corporation is required to maintain absolute integrity and devotion to duty and that he should confirm and abide by the regulation, however the workman Desai under the impression that union leader is exception to that misbehaved and encouraged instigated his colleagues to enter in the chamber of the Regional Manager manhandled and abused him in filthy language on 4-12-1993 which amounts to misconduct under service regulation therefore he was served with the charge-sheet and that Inquiry Officer giving him sufficient opportunity, by the report held him guilty and based on the report, punishment of reduction in increment was imposed which was reduced to censure by the Appellate Authority. It is pleaded that the inquiry was held during 14-7-94/21-12-95 and that workman was defended by a Senior Officer Mr. Chandrasekharan. Management denied that any prejudice was caused to the workman. It is contended inquiry being fair and proper and findings not perverse claim of union being devoid of substance be dismissed with costs in limine.

4. By Rejoinder (Exhibit-6) union reiterated the recitals in Claim Statement denying the averments in the Written Statement contending that prejudice was caused to the workman in the domestic inquiry.

5. On the basis of pleadings issues were framed at Exhibit-7 and in the context of preliminary issues General Secretary of Karmachari Sangh Mr. Padwal filed affidavit

(Exhibit-13) and workman himself filed affidavit in lieu of Examination-in-Chief (Exhibit-18) and closed oral evidence vide (Exhibit-19). In rebuttal Corporation's Manager (P&IR) Mr. Nandkumar filed affidavit (Exhibit-17) and closed oral evidence vide (Exhibit-20).

6. Management Corporation filed Written Submissions (Exhibit-21). On perusing the record, written submissions and hearing the workman Mr. Desai and the representative for the management, I record my findings on the preliminary issues for the reasons mentioned below :

Issues	Findings
1. Whether the domestic inquiry conducted against the workman was as per the Principles of Natural Justice?	Yes.
2. Whether the findings of the Inquiry Officer are perverse?	No.

REASONS

7. Admittedly domestic inquiry was held against the workman Shri Desai. According to Desai this inquiry was violative of the Principles of Natural Justice and fair play and that the findings recorded by the Inquiry Officer are perverse. Their Lordships of the Apex Court in *Sur Enamel and Stamping Works V/s. Their Workmen, 1963 II LLJ SCC 367*, ruled that enquiry cannot be said to have been properly held unless :

- (1) the employee proceeded against has been informed clearly of the charges levelled against him;
- (2) the witnesses are examined—ordinarily in the presence of the employee in respect of the charges;
- (3) the employee is given a fair opportunity to cross examine the witnesses;
- (4) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter; and
- (5) the Inquiry Officer records his findings with reasons for the same in his report.

According to workman Desai inquiry vitiates as the charges were vague and not clear and that he was not given sufficient opportunity and that he was not supplied with documents in the inquiry. It is seen from the inquiry proceedings workman had replied the charges on 13-1-1994 wherein he did not whisper on vague and complicated charges. Workman Desai who came up to the cadre of Clerk from Peon remained office bearer of the Union for many years if found difficulty in understanding the charges he would not have remained silent. On perusal

the charge-sheet dated 23-12-1993 it clearly point out the alleged incident and the role played by Desai, therefore there is no substance in the contention of workman that the charges were vague and ambiguous. So far copies of the documents and the opportunity is concerned, workman in cross-examination para 9 clearly admitted that the Corporation had not filed any documents in the inquiry and that he was given opportunity to examine his witnesses and that he had cross-examined all the management witnesses and further pointed out that he was represented by Mr. Chandrasekharan who according to the workman himself was the senior most Administrative Officer in the Corporation thereby well versed with the administrative work including the inquiries. Workman admits that inquiry was conducted on 12 dates during 1½ years and that he had given his summation to the Inquiry Officer. It is not that inquiry was hurriedly done. On plain reading of the inquiry proceedings and the report filed on record shows on proper appreciation of evidence and the documents on record with detailed reasons he had arrived at the conclusions on the misbehavior committed by the workman violative of Regulations 21, 24 & 39 (1) of the Staff Regulations.

8. So far the findings according to the workman are perverse is concerned, 'perversity' is that when findings are such which no reasonable person would have arrived at on the basis of material before him as pointed out by the Hon'ble Apex Court in Central Bank of India V/s. Prakash Chand Jain 1969 ILLJ 877. From the inquiry proceedings it is seen according to workman himself, he had tried to rescue the management officials which clearly indicates his presence at the material place and time. As stated above, findings of the Inquiry Officer are based on the evidence and documents, therefore cannot said to be perverse.

9. Workman Shri Desai urged with force that Principles of Natural Justice have not been followed by the Inquiry Officer, therefore the inquiry vitiated. The question whether principles of natural justice have been violated or not is to be found out on consideration as to whether the procedure adopted by the appropriate authority is in accordance with the law or not, whether the delinquent knew the charges he was going to face, whether he has been given opportunity to state his case and whether the authority acted in good faith. On perusal of the inquiry proceedings it is seen workman was informed clearly on the charges levelled against him, witnesses were examined ordinarily in his presence and Defence Representative and that the inquiry was conducted during the period of 1½ years and that he was given fair opportunity. It is not that with haste inquiry was concluded. No tailor made procedure is applicable to the domestic inquiry. In domestic inquiry it is to be seen in totality whether any prejudice had caused to the workman and that is to be looked at from the angle of justice or of

natural justice. The objective of Principles of Natural Justice is to ensure that justice is done. Justice means justice between both the parties. The interests of justice naturally demands that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice. Principles of Natural Justice are but means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end as observed by the Hon'ble Supreme Court in State Bank of Patiala V/s. S.K. Sharma reported in 1996 II CLR pg. 29. Therefore going through the evidence as a whole in the light of the rulings and the tests laid down in the case cited above, it is apparent that the domestic inquiry was conducted against the workman as per the Principles of Natural Justice and that the findings of the Inquiry Officer are not perverse. Issues are therefore answered accordingly and hence the order:

ORDER

The domestic inquiry conducted against the workman was as per the Principles of Natural Justice.

The findings of the Inquiry Officer are not perverse.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2755.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, मुम्बई के पंचाट (भाग-II) (संदर्भ संख्या 2/75 ऑफ 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-9-2003 को प्राप्त हुआ था।

[सं. एल-12011/86/2000-आईआर(बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Part-II) (Ref. No. 2/75 of 2000) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workman, which was received by the Central Government on 02-09-2003.

[No. L-12011/86/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2 : MUMBAI

PRESENT :

S.N. SAUNDANKAR,
Presiding Officer

REFERENCE NO. CGIT-2/75 OF 2000

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF BANK OF BARODA

The Chairman & Managing Director,
Bank of Baroda,
Central Office,
Walchand Hirachand Marg,
Ballard Estate,
Mumbai-400 038

V/s.

Their Workmen

The Deputy General Secretary,
Bank of Baroda, Employees Association,
Dadysheth Building,
44, Cawasji Patel Street, Fort,
Mumbai-400 023.

APPEARANCES :

For the Employer : Mr. L.L. D'Souza,
Representative.

For the Workmen : No Appearance.

Mumbai, dated 6th August, 2003

AWARD PART-II

By the Interim Award dated 3rd April 2003 this Tribunal held that the domestic inquiry conducted against Shri Dhabade was as per the Principles of Natural Justice and the findings of the Inquiry Officer are not perverse, consequently the only point as to whether the punishment imposed on the workman of stoppage of two increments with cumulative effect is justified or not in the context of the action of the management remains for the consideration of this Tribunal. The above said punishment was imposed on workman on the proved charge of giving false information and there by cheating the Bank committing act subversive of discipline. According to the union punishment imposed as above is disproportionate. Management's contention is that considering the proved charges in the sensitive industry like Bank where absolute devotion, diligence, integrity and honesty needs to be preserved by every employee is adequate and not at all disproportionate.

2. In so far as issues 3 & 4 which remained to be adjudicated by this Tribunal, on perusal of the record it is

seen workman did not venture to offer himself for cross-examination despite giving sufficient time while passing the Interim Award and that when the matter was fixed for final Award it is seen, union and the workman adopted the same tactics and remained absent. On perusing the record and hearing the Learned Representative for employer, I record my findings on the following issues for the reasons mentioned below :—

Issues	Findings
3. Whether the action of the management of Bank of Baroda in imposing the penalty of stoppage of two increments with cumulative effect on Shri N.D. Dhabade, Clerk-Typist is legal and justified?	Yes
4. What relief the workman is entitled to?	As per order below.

REASONS

3. Under Section 11-A of the Industrial Disputes Act the Tribunal can interfere with the punishment imposed by the Disciplinary Authority in connection with dismissal, discharge, termination and that too in exceptional cases where punishment appears to be shockingly disproportionate. In fact it is for the employee concerned to show how the penalty imposed is disproportionate to the proved charge. The punishment imposed on the workman Dhabade is of stoppage of two increments with cumulative effect and not the dismissal, discharge or termination attracting Section 11-A of the Industrial Disputes Act. Therefore, relying on the decision of Hon'ble High Court in USV Ltd. V/s. Maharashtra General Kamgar Union & Anr. 1997 (II) CLR 312 and Mithilesh Singh Vs. Union of India reported in 2003 SCC (L&S) 271 the punishment imposed cannot be interfered and that the same being legal and justified the workman is not entitled to any relief. Issues are therefore, answered accordingly and hence the order :—

ORDER

The action of the management of Bank of Baroda in imposing the penalty of stoppage of two increments with cumulative effect on Shri N. D. Dhabade, Clerk-Typist is legal and justified.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2756.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर (यूटिलिटी) एम.ई.एस. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या

91/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-9-2003 को प्राप्त हुआ था।

[सं. एल-14012/11/92-आईआर(डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91/93) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers relation to the management of Garrison Engineer (Utility) M.E.S. and their workman, which was received by the Central Government on 3-9-2003.

[No. L-14012/11/92-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

PRESIDING OFFICER : SHRI S. M. GOEL

ID NO. 91/93

Narinder Singh C/o Shri D. R. Sharma, House No. 551
Sector-41-A, Chandigarh. ... Applicant

Versus

Garrison Engineer (Utility) M.E.S. Bhatinda (Pb.)
... Respondent

APPEARANCES:

For the Workman : Shri D. R. Sharma

For the Management : Shri Arun Walia

AWARD

(Passed on 25-8-03)

Central Govt. vide gazettee notification No. L-14012/11/92/IR(DU) dated 26th of August, 1993 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Garrison Engineer (Utility) M.E.S. Bhatinda in terminating the services of Shri Narinder Singh son of Shri Mehar Singh, Mazdoor w.e.f. 16-1-87 is legal and justified? If not, what relief the concerned workman is entitled to and from what date?”

2. In the claim statement it is pleaded by the workman that he worked as mazdoor on daily wages with the management from 1-1-1985 to 2-2-1987 for 380 days of service and his services were terminated in 1987 alongwith other mazdoors in violation of Section 25-F of the I.D. Act 1947. It is further pleaded that some of the mazdoors went

to the Central Admn. Tribunal and later on the management went to the Supreme Court and the Hon'ble Supreme Court directed the appellants to reinstate the workman concerned in the posts held by them before the retrenchment without any backwages within one month from today. The Case of the present workman is similarly placed and he is entitled to be reinstated in service as mazdoor without backwages.

3. In the written statement the management has taken the plea that the respondent is not an industry. On merits the management admitted that workman worked from July 1985 to Jan. 1987 and he never completed 240 days of service continuously and there is no illegality in the termination of the services of the workman. It is also submitted that the case of the workman and that of the case decided as referred by the workman is different. It is further pleaded that the workman worked for 380 days with the management but had not completed 240 days in one calander year and thus prayed for the dismissal of the reference.

4. The applicant also filed the replication reiterating his claim as made in the statement of claim.

5. The applicant filed his affidavit Ex. W1 in evidence and also appeared as WW1 for cross-examination. In rebuttal the management has filed the affidavit Ex. M1 of Narinder Singh who also appeared for cross-examination as MW1. The management also filed detail of working days as MW2. In Ex. M1 the affidavit of Narinder Singh it is admitted by the management that the workman has worked for 237 days in one calander year.

6. I have heard the Learned Counsel for the parties and have gone through the evidence and record of the case.

7. The Learned Counsel for the workman has argued that the applicant worked from 1-1-1985 to 2-2-1987 and had completed more than 240 days of service within one calander year immediately preceding the date of termination. The witness of the Management MW1 Narinder Singh has also admitted in his affidavit that the applicant worked for 237 days within one calander year. The document Ex. M2 proved by the Management on record goes to show that the applicant worked from 11-7-1985 to 15-1-1987 for 380 days during this period. The Learned Counsel for the workman has argued that even if Ex. M2 is taken in consideration. It shows that Sundays and holidays have not been included for the purpose of Calculating 240 days of service. He has also relied on the authority AIR 1986 Supreme Court 458 workmen of American Express Vs Management of American Express in which the Hon'ble Supreme Court has held that Sundays and other paid holidays should be taken into account for the purpose of completion of 240 days. On the other hand the only argument of the Learned Counsel for the Management is that the applicant had only completed 237 days of service and the provisions of Section 25-F of the I.D. Act 1947 are not applicable in the case of the workman.

8. I have gone through the contentions of the rival parties and have also gone through the document Ex.M2. From document Ex.M2 it appears that the management has not taken into consideration the Sundays and other paid holidays for counting the mandatory 240 days. For example it is mentioned in Ex. M2 that the applicant worked from 12-5-86 to 5-6-1986 and it was shown that he has worked for six day, similarly from 7-6-86 to 1-7-1986 for 15 days and 9-8-86 to 2-9-86 for 22 days from 4-9-1986 to 28-9-1986 for 19 days and from 30-9-86 to 24-10-1986 for 18 days, from 27-10-1986 to 20-11-1986 for 13 days and from 22-11-1986 to 16-12-1986 for 20 days. The record Ex. M2 clearly shows that Sundays and other holidays have not been included in the counting number of days. The management has admitted that the applicant worked 237 days and it appears from Ex.M2 that the Sundays and other holidays have not been included. Moreover when the workman was about to complete 240 days, he was terminated from service which also amounts to unfair labour practice on the part of the management.

9. The learned counsel for the workman has also argued that similarly situated persons had approached the Hon'ble Supreme Court and the Hon'ble Supreme Court in the case of Harmesh Lal Vs. Union of India directed the management to reinstate the workmen concerned in the posts held by them before the retrenchment without payment of any backwages, within one month. The order of the Hon'ble Supreme Court has been incorporated by the applicant in his claim statement. The Hon'ble Supreme Court has already ordered for the reinstatement of the workmen who were party to this case of Harmesh Lal Supra. As the present workman was not party to that case and there is also no evidence on record, therefore, without going through the record of that case the present applicant can not claim the benefit. It is admitted case of the parties, that no retrenchment compensation and notice etc. was given to the workman and the management has not complied with the mandatory provisions of Section 25-F of the I.D. Act 1947 at the time of termination of his services. Therefore, as the management has not complied with the provisions of Section 25-F of the I.D. Act 1947, the workman is ordered to be reinstated in the service of the management w.e.f. 16-1-1987 with continuity of service but without any backwages as he was working on daily wages with the management. Even otherwise also the Hon'ble Supreme Court in the similar case, reinstated the workman without backwages. Thus the management is directed to reinstate the workman within one month from the date of the publication of the Award. The reference is answered in favour of the workman. Central Govt. be informed.

Chandigarh.
25-8-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2757.—औद्योगिक विवाद अधिनियम, 1947 (1947 को 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 184/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-9-2003 को प्राप्त हुआ था।

[सं. एल-42012/47/90-आईआर(डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 184/90) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employee in relation to the management of B. B. M. B. and their workman, which was received by the Central Government on 3-9-2003.

[No. L-42012/47/90-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

PRESIDING OFFICER : SHRI S. M. GOEL

Case No. I.D. 184/90

General Secretary, Nangal Bhakra Mazdoor Sangh
I.N.T.U.C. House No. 35-G, Nangal Township
Distt. Ropar-140124.

... Applicant.

V/s.

Chief Engineer, Bhakra Dam, Nangal Township
Distt. Ropar-140124.

... Respondent

REPRESENTATIVES :

For the workman : Shri R. K. Singh

For the Management : Shri R. C. Atri

AWARD

(Passed on 11th August, 2003)

The Central Govt. Ministry of Labour vide Notification No. L-42012/47/90-I.R.(D.U) dated 28th November 2002 has referred the following dispute to this

Tribunal for adjudication :

"Whether the action of the management of the B.B.M.B. represented through the Chief Engineer, Bhakra Dam, Nangal Township in terminating the services of Shri Pardeep Kumar, S/o Shri Tirath Ram, skilled labour w.e.f. 6-11-87 is justified? If not, to what relief the workman is entitled and with what effect?"

2. In the claim statement it is pleaded by the workman that he was engaged as skilled mazdoor in work charge capacity for 89 days and after medical test he was allowed to join duty w.e.f. 27-3-87 and he continued upto 6-11-87 and his services were terminated without following the mandatory provisions of the I.D. Act and he was not allowed to complete 240 days of service. The management also retained juniors in violation of Section 25G and H of the I.D. Act. It is therefore prayed that the workman may be reinstated in service with full back wages and other benefits.

3. The management in the written statement admitted that the applicant worked from 27-3-87 to 23-6-87 or 89 days for specified period and also from 25-6-87 to 21-9-87 and from 23-9-87 to 6-11-87 for specific periods. The services of the petitioner came to an end in terms of his appointment letter automatically and no pick and choose method has been adopted by the management. It has been prayed that there is no merit in the reference and the same deserves rejection.

4. Rejoinder was also filed reiterating the claim made in the claim statement.

5. The evidence of the workman filed his own affidavit as W1 and in cross-examination he has admitted that Ex.M1 is his appointment letter. The management produced Shri Krishan Kant MW1 who filed his affidavit Ex.M1 and documents Ex.M3 and M4.

6. I have heard the learned representatives of the parties and have gone through the evidence and record of the case.

7. The learned representative of the workman has argued that the workman was not allowed to complete 240 days of service and juniors have been retained. The workman in his affidavit and even in his claim statement has not mentioned any name of his juniors. On the other hand the argument of the learned representative of the management is that the appointment of the applicant was for the specific period and he has also not completed 240 days of continuous service within one calendar year and the termination is the result of the terms and conditions of appointment where by the appointment was not renewed and it came to an end automatically. I have gone through the appointment letter Ex.M1. which stipulates that the

appointment is only for 89 days and being appointed for a specific period against the specific job and that no notice of termination was to be given Ex.M3 and M4 are also the appointment letters which are also for specific period and in my considered opinion this is not a case of termination and it is squarely covered under Section 2(oo) (bb) of the I.D. Act 1947 which covers the specific nature of job as offered by the management to the applicant vide appointment letters Ex.M1, M3 and M4. Therefore, the workman can not claim that his termination is covered under retrenchment. Moreover no junior can be held to be engaged as no where it is proved by the workman by any documentary evidence. It is also pertinent to mention here that the reference was sent by the Ministry of Labour regarding the termination of the workman and not for the violation of Section 25-G and H of the I.D. Act 1947.

8. In view of the discussion made in the earlier paras there is no merit in the present reference and the same is rejected and answered against the workman. Central Govt. be informed.

CHANDIGARH.
DATED : 11-8-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

का. आ. 2758.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. टी. एन. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/123 ऑफ 98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-9-2003 को प्राप्त हुआ था।

[सं. एल-40012/25/98-आईआर(डीबू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 3rd September, 2003

S. O. 2758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/123 of 98) of the Central Government Industrial Tribunal-cum-Labour Court, No.2, Mumbai as shown in the Annexure in the Industrial Dispute between the employee in relation to the management of M.T.N.L. and their workman, which was received by the Central Government on 3-9-2003.

[No. L-40012/25/98-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2 MUMBAI

PRESENT

S. N. Saundakar
Presiding Officer

Reference No. CGIT-2/123 of 1998

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF MAHANAGAR TELEPHONE NIGAM LIMITED

The General Manager,
Mahanagar Telephone Nigam Limited,
Telephone House,
Veer Savarkar Marg, Prabhadevi,
Mumbai-400028.

V/s.

THEIR WORKMEN

Shri Ashok Waghmare,
T/M St. No. 89597,
Room No. 7, Chawl No. A-1,
Siddarth Colony, Chembur,
Mumbai-400071.

APPEARANCES:

FOR THE EMPLOYER : Mr. A. K. Singh
Advocate holding
for Mr. S.R. Rajguru.

FOR THE WORKMEN : Mr. N. Y. Lokhande,
Advocate.

Mumbai, dated 22nd July 2003

AWARD

The Government of India, Ministry of Labour by its Order No.L-40012/25/98/IR(DU) dated 10-9-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Mahanagar Telephone Nigam Ltd, Mumbai illegal retrenchment of Shri Ashok Waghmare, w.e.f. 22-4-1991 is legal and justified? If not, what relief the workman is entitled to?"

2. Workman Waghmare was employed as Mazdoor by the Chief General Manager M.T.N.L. Mumbai on 1st November 1980. Vide Statement of Claim (Exhibit-6) workman averred that he worked in the MTNL during the period 1980 to 1991 however, he was removed by the management from 26th April 1991 without giving him notice,

notice pay, retrenchment compensation i.e. without following the provisions of the Industrial Disputes Act, therefore his termination is illegal. He averred that he had approached the R.L.C. (C), Mumbai in connection with his illegal termination, who is turn, tried conciliation, but failed, therefore he contended to direct the management to reinstate him in service with full back wages.

3. Management resisted the claim of workman by filing Written Statement (Exhibit-12) contending that the Appropriate Government for the M.T.N.L. is the State Government and not the Central Government, therefore this Tribunal has no jurisdiction to entertain and try the reference. Without prejudice to the said it is pleaded that workman was working as temporary mazdoor and that he worked from 1981 till April 1990 and thereafter remained absent and that since 26th April he did not turn up and that by absenting himself he voluntarily abandoned the work, therefore question of his termination by the MTNL does not arise. It is further the contention of the management that inordinate delay has been caused in raising the dispute thereby reference suffers from leaches and for all the reasons, prayed to dismiss the claim of workman.

4. By Rejoinder (Exhibit-13) workman reiterated the recitals in the Claim Statement denying the averments in the Written Statement contending that he was allotted staff No. 89597 and despite that he was not allowed to join duty, therefore his termination is contrary to the provisions of the Industrial Disputes Act.

On the basis of pleadings issues were framed at Exhibit-15 and in that context workman filed affidavit in lieu of Examination in Chief (Exhibit-7) and finally closed oral evidence vide purshi (Exhibit-24). In rebuttal, Assistant Engineer-Junction (Gamdevi) Mr. Ahmed filed affidavit (Exhibit-25) and the management closed oral evidence vide purshis (Exhibit-26). Workman filed written submissions (Exhibit-27) and the management (Exhibit-30).

6. On perusal of the record it is seen my Learned Predecessor, since the management remained absent had allowed the claim of workman Ex-parte, by Award dated 22-9-1999 and that on filing the Misc. Application by management bearing No. CGIT-2/7 of 1999 the said Ex-parte Award was set aside on 17-7-2001 and the reference was restored to file. However during the pendency of reference, workman Waghmare reported to be dead on 10-11-2002. Since the workman died, claim stands abated, consequently following order is passed:

ORDER

Reference stands abated as workman died on 10-11-2002.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2003

AWARD

क्र.अ. 2759.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल इंस्टिट्यूट ऑफ फ्रेशवाटर एक्वाकल्चर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 22/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-9-2003 को प्राप्त हुआ था।

[सं.एल.-42012/153/2000-आई आर (डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 3rd September, 2003

S.O. 2759.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of Central Instt. of Freshwater Aquaculture and their workman, which was received by the Central Government on 03-09-2003.

[No. L-42012/153/2003-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR**

Present : SHRI S. K. DHAL, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 22/2000

Date of conclusion of hearing-11th August, 2003

Date of Passing Award-25th August, 2003

Between :

The Management of the Director,
Central Institute of Freshwater
Aquaculture (I. C. A. R.), Kausalyaganga,
Bhubaneswar (Orissa)-751 002.

...1st Party-Management

And

Their Workman represented through the
General Secretary, C.I.F.A. Sramik Sangh,
Kausalyaganga, Bhubaneswar,
(Orissa)-751 001.

...2nd Party-Union

Appearances:

Shri K. C. Das, Assistant
Administrative Officer. ... For the 1st Party
Management

Shri Debendranath Malik.
... For the 2nd Party
Union

The Government of India in the Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-42012/153/2000/IR(DU), dated 28-09-2000.

"Whether the action of the CIFA Management, Bhubaneswar by not regularizing the services of 50 Workmen who have completed 240 days of continuous service is justifies ? If not, to what relief the workmen are entitled ?"

2. The 2nd Party in this case is the General Secretary, C.I.F.A. Sramik Sangh, Kausalyaganga, Bhubaneswar. The General Secretary is representing the 50 persons (herein-after called as the disputants). The case of the 2nd Party may be stated in brief.

Since the year 1991 the disputants are working continuously under the 1st Party-Management. According to them the work attended by them are permanent and perennial in nature and are incidental to the activities of the Institute. Some other workers standing on the same footing have got temporary status are receiving their regular scale of pay attached to the post. So, the disputants represented the 1st Party-Management for equal status but when their demand was turned down they raised a dispute before the competent authority for permanent absorption. They have prayed for regularization with retrospective effect with all benefits thereon.

3. On receipt of the copy of the Claim Statement from the disputants, the 1st Party-Management has filed their Written Statement. The 1st Party-Management has taken the stand that, the disputants were never appointed. They are daily rated workmen engaged for seasonal work. As they are not permanent employees they are being paid wages. The jobs attended by them are neither permanent nor perennial in nature. The main stand of the 1st Party-Management is that the question of absorption or regularization does not arise when there is no vacancy.

4. On the above pleading of the parties the following Issues have been settled.

ISSUES

1. Whether the workmen have completed 240 days of continuous service?
2. Whether the action of the 1st Party-Management by not regularizing the services of 50 workmen is justified?
3. Whether the reference is maintainable?

4. What relief the workmen are entitled?
5. On behalf of the 2nd Party, two witnesses have been examined and 14 documents have been exhibited. On the other hand, the 1st Party-Management has examined one witness in support of their stand.

FINDINGS

ISSUE NO. III

6. For the convenient sake, I have taken this issue first. No materials have been placed nor any advance has been argued on behalf of the 1st Party-Management that the reference is not maintainable. The 1st Party-Management comes under the definition of Industry and the disputants are also working under them. So, the present reference is maintainable. Hence, this issue is answered accordingly.

ISSUE NO. II

7. The disputant have claimed that they have worked for more than 240 days or more than that till date. This has also not been challenged by the 1st Party-Management. The Ext.-7 produced on behalf of the 2nd Party reveals the number of days worked by each of the disputant in a calendar year. One Shri H. K. Muduli has been examined on behalf of the 1st Party-Management and he has filed the affidavit. His evidence given in way of affidavit does not show that the disputants have never worked for 240 days or more from the date of their engagement. So, in absence of any rebuttle materials produced on behalf of the 1st Party-Management, I am of the opinion, that, the disputants have worked for more than 240 days in some calendar year or more than that. Hence, this issue is answered accordingly.

ISSUE NO. I

8. This is the main issue of the reference. The reference has been made to answer whether the action of the 1st Party-Management by not regularizing the services of 50 disputants is justified or not? In course of the argument the learned representative appearing on behalf of the 2nd Party has fairly conceded that unless the post is available no order of regularization can not be passed. The 1st Party-Management has taken the stand that, presently no posts are available. They have taken the stand that the engagements of the disputants are dependent on the availability of the work because the work is not permanent or perennial in nature. The 2nd Party also has not placed any materials before this Tribunal to convince that, the posts are available but the 1st Party-Management is not taking any step for regularization of services of the disputants. So, even though the disputants have worked for more than 240 days no order or direction can be passed by this Tribunal to regularize their services from the retrospective date when there is non-availability of the posts. So, the action of the 1st Party-Management in not regularizing the 50 disputants can not be said unjustified. In other words, the action of the 1st Party-Management by not regularizing the services of the 50 disputants is legal and justified. Hence, this issue is answered accordingly.

ISSUE NO. IV

9. The representative of the 2nd Party has submitted that, various correspondences produced by them would reveal that, the 1st Party-Management had taken step for giving temporary status to those disputants. In many cases the other persons like the disputants have got the advantage of getting temporary status or being regularized in service but in the case of these 50 disputants such sympathy has not been shown. Even if presently, the services of 50 disputants can not be regularized in absence of non-availability of the posts, the 1st Party-Management should be directed to introduce a scheme or take steps for regularization of their services and pending that, the disputants should be given temporary status. On the other hand, it has been submitted on behalf of the 1st Party-Management that, no prayer has been made by the disputants in their Claim Statement. Moreover, the reference has been made to decide whether the action of the 1st Party-Management by not regularizing the services of the 50 disputants is legal and justified? According to them, this Tribunal can not go beyond the reference and can not grant any other relief which has not been prayed for by the disputants in their Claim Statement or no reference has been made by the Government in that regard.

10. Admittedly the 2nd Party has not claimed for temporary status pending regularization. This submission was made during course of argument. Reference also has been made regarding regularization of the services of the 50 disputants. In the reference it has been mentioned that, whether the action of the 1st Party-Management by not regularizing the services of the 50 Workmen is justified? If not what relief the workmen are entitled to? So, in that case there is sufficient indication in the reference for the Tribunal to grant relief even if no prayer has been made in the Claim Statement. That is why an issue has been framed regarding the grant of relief to the Workmen. So, I am not inclined to accept the submission made on behalf of the 1st Party-Management that in absence of any prayer no other reliefs could be granted. If the Tribunal is found that, the disputants are entitled some other kind of relief it has got power to grant such relief. In this connection, the submission made on behalf of the 2nd Party is that pending regularization, the 50 disputants should be given temporary status as done earlier in some other cases. The attention of this Tribunal has been invited by the 2nd Party to the Ext.-10 which is a letter written to the Assistant Labour Commissioner (Central) by the Administrative Officer of the 1st Party-Management in which it has been disclosed that, the 1st Party-Management have granted temporary status and regularization of casual workers who had worked till 1-9-1993 as per the provisions contained in DOPT letter No. 49014/2/86-Estt. (C), dated 07-06-1988. The letter of the DOPT and the action taken by the 1st Party-Management were be found from Annexure-1 filed by the 1st Party-Management during the course of argument. The Department of Personnel & Training, Ministry of Personnel, P.G. & Pensions, Government of India took a decision to grant of temporary status and regularization of

casual workers in pursuance of the judgement passed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi on 16-2-1990 in the case of Shri Raj Kamal & Others, - Versus- Union of India. The 1st Party-Management sought for clarification wherein it has been mentioned that, the scheme is not applicable in respect of those casual employees who fulfill the criteria of 240 days of service after 1-9-1993. Basing on this the 1st Party-Management has taken the stand that, as the disputants have worked before 1-9-1993 and some of them have not completed 240 days. So their case has not been taken into consideration and at present the 1st Party-Management can not give them temporary status because that decision have been taken for one time measure. Inspite of my advice the decision rendered by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi was not brought to the notice of this Tribunal. The Annexure-1 admittedly reveals that, it was a one time affair and is applicable in respect of those casual employees who were in service on the notification of the scheme and had rendered one year of continuous service with 240 days or 206 days as the case may be. But it is an admitted fact that some of the disputants are presently working under the 1st Party-Management. That would suggest that the work is available. Attention of this Tribunal has been invited by the 2nd Party to the case of Secretary, Haryana State Electricity Board -Versus- Suresh and Others reported in AIR 1999 SC 1160, in the case of Hindustan Machine Tools and Others -Versus- M. Rangareddy and Others reported in (2000) 7 SC 741 and in the case of Air India Statutory Corporation, Versus- United Labour Union and Others reported in AIR 1997 SC 645. It has been submitted on behalf of the 2nd Party that the 1st Party-Management should be directed to prepare a scheme and to give temporary status to the disputants with a view to regularization of their services in future. In the case of Hindustan Machine Tools and others the direction of the High Court for preparation of a scheme for casual labourer was challenged before the Hon'ble Apex Court, which were pleased to observe that, the direction given by the High Court, can not be interfered. However, considering the submissions that the company is under financial constraints and has decided to reduce its work; It was directed that, while framing the scheme it would be open to the company and the officers concerned to assess the requirement of regular work force in its different units. In the case of the Hindustan Machine Tools & Others, the casual labourers had worked for more than 10 years of continuous service. So, the Hon'ble Apex Court issued direction to frame a scheme for absorption of casual labourers as regular employees. The facts of the third case referred to above is quite different from the facts of the present case. I have already expressed my opinion, that, the question of absorption of the disputants does not arise in absence of any vacant posts which has been fairly conceded by the learned representative appearing on behalf of the disputants. The direction of the Apex Court or The High Court to the Company to frame a scheme, in my opinion is a direction by exercising the inherent power vested with them. But this Tribunal lacks that power.

So, this Tribunal lacks the jurisdiction to direct the 1st Party-Management to introduce the scheme for giving temporary status to the disputants. Hence, this Issue is answered accordingly.

11. Reference is answered accordingly.

S.K. DHAL, Presiding Officer

BEFORE THE C.G.I.T.-CUM-LABOUR COURT:
BHUBANESWAR

I.D. Case No. 22/2000

List of the Witnesses Examined on behalf of the 2nd party-Workmen.

W.W. 1. Shri Debendranath Mallik.

W.W. 2. Shri Dheneswar Behera.

List of the Witnesses Examined on behalf of the 1st Party-Management.

M.W. 1. Shri Harekrishna Muduli.

List of the Documents exhibited on behalf of the 2nd Party-Workman.

- Ext-1. Copy of the Circular for grant of temporary status and regularization of casual workers, dated 10-9-1993.
- Ext-2. Copy of the order of CIFA Management dated 8-11-1996.
- Ext-3. Copy of letter dated 23-11-1994 of I.C.A.R.
- Ext-4. Copy of the list of 50 workers.
- Ext-5. Copy of bill paid to Shri Babuli Pradhan.
- Ext-6. Copy of payment receipt of Shri Babuli Pradhan as Contractor.
- Ext-7. Copy of list of workman submitted by the 2nd Party.
- Ext-8. Copy of order dated 22-2-2001 of Ministry of Home Affairs.
- Ext-9. Copy of certificate issued to Shri Debendra Nath Mallik and Shri Pinaki Samal.
- Ext-10. Copy of letter No. I41/CIFA/Estt./99-3191(1), dated 20-3-2000 addressed to the A.L.C.(C) Bhubaneswar by CIFA Management.
- Ext-11. Copy of the Office Memo No. F-49014/2/86-Estt.(C), dtd. 7-6-1988 of Ministry of Personnel, P.G. & P.D. & Training.
- Ext-12. Copy of the letter No. F-21-11/2001-Cdn., dtd. 11-4-2001 issued by ICOAR, Krishi Bhawan, New Delhi to ICAR regarding regularization of casual labourers in the ICAR Institutes.
- Ext-13. Certificate Issues to casual labourers to work under the Management and receive payment

directly from the Management.

- Ext.-14. State Voucher No. 41712, dated 18-2-2002 issued by CIFA, Bhubaneswar.
- Ext.-14/1. Sale Voucher No. 43036 dated 27/5 issued by CIFA, Bhubaneswar.
- Ext.-14/2. Sale Voucher No. 43483 dated 6/6 issued by CIFA, Bhubaneswar.
- Ext.-14/3. Sale Voucher No. 43502 dated 7/6 issued by CIFA, Bhubaneswar.
- Ext.-14/4. Sale Voucher No. 43701 dated 24-6-2002 issued by CIFA, Bhubaneswar.

List of Documents exhibited on behalf of the 1st Party-Management.

No Documents have been exhibited by the 1st Party-Management.

नई दिल्ली, 4 सितम्बर, 2003

का.आ. 2760.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं०-2, मुम्बई के पंचाट (संदर्भ संख्या सी.जी.आई.टी. 2-6-99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-9-2003 को प्राप्त हुआ था।

[सं० एल०-41012/39/1998-आई० आर (बी-1)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 4th September, 2003

S.O. 2760.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Rf. No. CGIT-2/6-99) of the Central Government Industrial Tribunal No. 2, Mumbai, Now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 03-09-2003.

[No. L-41012/39/1998-IR(B-I)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2 MUMBAI

Present : S. N. SAUNDANKAR Presiding Officer

REFERENCE NO. CGIT-2/6 OF 1999

EMPLOYERS IN RELATION TO THE MANAGEMENT OF CENTRAL RAILWAY,

The General Manager
Central Railway,
Mumbai CST,
Mumbai-400001.

V/s.

THEIR WORKMEN

Shri Madho Singh Samant,
C/o. Madhya Railway Karmachari Sangh,
33, Moti Bhavan,
Dr. D'Silva Road, Dadar,
Mumbai-400028.

APPEARANCES:

FOR THE EMPLOYER : Ms. D. Fernandes,
Advocate holding for
Mr. Suresh Kumar.

FOR THE WORKMEN : Mr. M.B. Anchan,
Advocate.

Mumbai, dated 3rd June 2003

AWARD

The Government of India in the Ministry of Labour by its Order No. L-41012/39/98/IR (B-I) Dated 31-12-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the General Manager Central Railway in terminating the services of Shri Madho Singh Samant, Ex-Bungalow Peon to Sr. Dy. G.M. of Central Railway w.e.f. 31-3-1997 is justified? If not to what relief the workman is entitled to?"

2. Madho Singh Samant was appointed as Bungalow Peon by the order dated 19-1-1996. Vide Statement of Claim (Exhibit-7) Samant pleaded that he was later on posted as Bungalow Peon of Senior Deputy General Manager Mr. Kushwah from 9-5-1996, on being found fit medically on 22-1-1996 in the permanent post. It is averred that workman had to go to his native place he had applied for 30 days leave from 12-3-1997 to 12-4-1997 and had given the application to Mr. Kushwah and after seeking his approval he had handed over the said application to AS (G) Mr. Balan and thereafter he had proceeded to his native place and after availing the leave he had gone to resume duty on 13-4-1997 however, he was not allowed to join duty by the Senior Deputy General Manager saying his services are no more required and when he approached the Assistant Personnel Officer, he was informed that his service were already terminated by the letter dated 31-3-1997. It is the contention of Samant that he had not received the termination order and that without giving him show cause notice and domestic inquiry he was terminated on the ground of unsatisfactory work, therefore, his termination being illegal management Central Railway be directed to reinstate him in service with full back wages.

3. Management resisted the claim of Samant by filing Written Statement (Exhibit-10) contending that Railway is not an 'Industry' and that Samant is not a 'workman' consequently

this Tribunal has no jurisdiction to entertain and adjudicate the reference. It is averred that Railway is performing sovereign functions not for any profit motive and further pleaded that Samant a substitute Peon was a Civil Servant whose services are governed under the Constitution of India therefore it is not an 'Industry'. It is averred that Samant was appointed under the circular dated 9-10-1972 modified on 11-6-1996 whose services fall under the exception to Section 2(oo) (bb) because of non renewal of contract of employment between the employer and employee. It is pleaded that Samant worked under SDGM till 11-3-1997 and thereafter from 12-3-1997 he remained absent without permission/sanction and as his unauthorised absence was great inconvenience to the persons at the place of residence and as such his work was unsatisfactory, under the extant rules his services were terminated by the order dated 31-3-1997. It is contended that along with the termination letter Samant was sent one month's salary in lieu of notice period along with retrenchment compensation therefore the management's action of termination is legal and justified. Consequently management pleaded that Samant's claim being devoid of substance be dismissed with costs in limine.

4. By Rejoinder (Exhibit-11) Samant reiterated the recitals in the Statement of Claim denying the averments in the Written Statement contending that he was appointed in permanent post as sub-Bungalow Peon and not as Contract Labour. It is contended that his termination without giving show cause notice and holding inquiry is illegal.

5. On the basis of pleadings issues were framed at Exhibit-12 and in that context Samant filed affidavit in lieu of Examination in Chief (Exhibit-15) and closed oral evidence (Exhibit-21). In rebuttal, Assistant Personnel Officer (Admn) Mr. Deoghare filed affidavit (Exhibit-22) and closed oral evidence vide purshis (Exhibit-24).

6. Samant filed Written submissions (Exhibit-25) and the management (Exhibit-26). On perusing the record, written submissions and hearing the counsels, I record my findings on the following issues for the reasons mentioned below:

Issues	Findings
1. Whether management proves that Railway is not an 'industry' and therefore this Tribunal has no jurisdiction to entertain and try the reference?	No
2. Whether Samant proves that he worked continuously for more than 240 days in a year?	Yes
3. Whether Samant proves that management did not comply with the provisions of Section 25 F of the Industrial Disputes Act?	Yes
4. Whether the action of the General Manager	No

Central Railway in terminating the services of Shri Madho Singh Samant, Ex-Bungalow Peon to Sr. Dy. GM of Central Railway w.e.f. 31-3-1997 is justified?

5. What relief Shri Samant is entitled to? . As per order below

REASONS

7. At the outset, the Learned Counsel Ms. Fernandes holding for Advocate Suresh Kumar for the management inviting attention to the Written Statement para 1 submits that Railway is performing governmental function, it is not a profit making activity but a welfare activity. She submits that functions performed by Railway are sovereign functions therefore it is not an 'industry' under section 2 (j) of the industrial Disputes Act. On the other hand the Learned Counsel Mr. Anchan for the workman submits that in catena of Judgments. Their Lordships pointed out that Railway is an 'industry'. His Lordship of Bombay High Court in Writ Petition No. 1751 of 1991 by the order dated 11-10-2000 while deciding the applications filed against the Railway Department under section 33 C (2) of the Industrial Disputes Act clearly ruled that Railway is an 'industry'. Recently in Writ Petition No. 1728 of 1998 in the matter of Western Railway V/s. Virendra Kumar dated 12-6-2003 Hon'ble High Court directed the Railway administration to pay overtime allowance to the workers. In view of the rulings referred to above it is apparent that the Railway is an 'industry' and that Samant is a workman, consequently this Tribunal has jurisdiction in width to entertain and adjudicate the same. Issue No. 1 is answered accordingly.

8. According to workman Samant he was appointed on 19-1-1996 as Bungalow Peon in the scale of Rs. 750-940 on prior approval of General Manager, Central Railway, Mumbai and that after he was found medically fit, was posted at the bungalow of Senior Deputy General Manager, Mr. Kushwah. The Assistant Personnel Officer (Admn) in the office of Chief Personnel Office, Mumbai Mr. Deoghare clearly admitted the date of appointment of Samant and that workman since 12-3-1997 did not report for duty, therefore, he was terminated w.e.f. 31-3-1997 which clearly indicative to show that workman continuously worked for more than 240 days in a calendar year as required under Section 25 B of the Industrial Disputes Act.

9. According to workman Samant when he was working at the Bungalow of Senior Deputy General Manager Mr. Kushwah, he had by application dated 12-3-1997 requested for 30 days leave till 12-4-1997 and that on seeking approval on the said application he was told to give the said application to Balan AS (G) for further action and thereafter he proceeded on leave to go to his native place and that he returned to resume duty on 13-4-1997 however Senior Deputy General Manager did not allow him to join the duty saying he was already terminated by the order dated 31-3-1997. Management

Railway denied that workman had given any application for leave and that was allowed. According to Assistant Personnel Officer Mr. Deoghare workman remained absent without any intimation therefore under the extant rules in consonance with Railway's letter dated 9-10-1972 modified on 11-6-1996 since he was engaged as a substitute Bungalow Peon and his work was not satisfactory, he was terminated by sending retrenchment compensation Rs. 3319/- by the order of Senior Deputy General Manager. Mr. Deoghare clearly admits that no notice, no charge-sheet was given to the workman. It is the contention of workman that he had not received even an order of termination dated 31-3-1997. Nothing on record to show that workman was given the order of termination. It is therefore clear that no show cause notice nor charge-sheet, nor hearing nor even order of termination was given to workman which is clear cut departure from the mandatory provisions of Section 25-F of the Industrial Disputes Act. Their Lordships of the Supreme Court in *Jai Shanker V/s. State of Rajasthan* AIR 1966 SC page. 492 ruled :

"Removal from service without giving opportunity to show cause is illegal"

The Learned Counsel Ms. Fernandes submits that workman Samant was terminated on the basis of the Railway Circular dated 9-10-1972 modified on 11-6-1996 which mentions Bungalow Peon appointed as a substitute Bungalow Peon can be terminated without assigning any reason under the extant rules. It is necessary to see whether rules of natural justice have been followed before taking action against the workman to ensure that justice is done. Justice means justice between both parties. Principles of Natural Justice are but means to achieve the ends of justice to find out whether the authority acted in good faith as observed in *State Bank of Patiala & Ors. V/s. S.K. Sharma* 1996 II CLR 29. If we read the note dated 14-3-1997 Page 6/Exhibit-25 is apparently arbitrary i.e. against the Principles of Natural Justice therefore the action of the management is wholly unjustified. Any circular contravening the Principles of Natural Justice is redundant. So far the retrenchment compensation is concerned, according to Mr. Deoghare Rs. 3,319/- was sent to workman however nothing of the sort on record which indicative to show that the management clearly contravened the provisions of Industrial Disputes Act. It has come on record that workman had gone to resume duty on 13-4-1997 after availing leave, but was not allowed to join, therefore, considering the evidence as a whole, it is clear that the management terminated the workman without following the provisions of the Industrial Disputes Act and consequently action being wholly unjustified, the workman deserves to be reinstated in service with full back wages and consequential monetary benefits. Issues Nos. 2, 3, 4 and 5 are answered accordingly and hence the order :

ORDER

The action of the General Manager Central Railway in terminating the services of Shri Madho Singh Samant, Ex-

Bungalow Peon to Sr. Dy. General Manager of Central Railway w.e.f. 31-3-1997 is wholly unjustified.

Management is directed to reinstate the workman Samant with continuity in service with full back wages and consequential monetary benefits.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

का. अ. 2761.—औद्योगिक विवाद अधिनियम, 1947 (1947 को 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं०-1, मुम्बई के पंचाट (संदर्भ संख्या सी.जी.आई.टी-9/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-3-2003 को प्राप्त हुआ था।

[सं.एल-41011/39/1995-आईआर (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 4th September, 2003

S.O. 2761.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-09/97) of the Central Government Industrial Tribunal No. 1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway and their workman, which was received by the Central Government on 3-9-2003.

[No. L-41011/39/1995-IR(B-I)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice S.C. Pandey Presiding Officer

Reference No. CGIT-09/1997

PARTIES :

Employers in relation to the management of Western Railway and their Workmen

APPEARANCES :

For the Management : Ms. D. Fernandes, Advocate.

For the Workmen : Mr. M.B. Anchan, Advocate.

State : Maharashtra

Mumbai, dated the 21st day of August, 2003

AWARD

1. This is a reference made by the Central Government under clause 1(d) of Sub-section 1 and Sub-section 2A of Section 10 of the Industrial Disputes Act (the Act for short) for resolving the following industrial dispute between the Western Railways Bombay (the Employer for short) and Smt. Vasanti Chumilal (the workman for short).

"Whether the action of DRM, Bombay Division Western Railway for not regularizing job of Smt. Vasanti Chunilal Grain cleaner and not giving benefit to the Grain Cleaner is justified or not? What relief should be granted?"

2. The Paschim Railway Karmachari Parishad (the Union for short) filed the Statement of Claim on behalf of the workman. It stated that workman was appointed as a grain cleaner at Jagjivan Ram Hospital, Mumbai since May 1984. She was treated as a daily wager since then. She was not given status of a temporary Railway servant. It was claimed when she raised the dispute for regularization her services were terminated with effect from 03-12-1996 without assigning any reason and without payment of retrenchment compensation and notice.
3. In the written statement the Employer has taken the stand that it is not an industry. It was stated that the workman was not covered by Section 2(s) of the Act. It was claimed that reference could not proceed without making the Union of India a party to the proceeding. It was further stated that there was no post of grain cleaner in Jagjivan Ram Hospital. It was stated that the workman was employed once in week for two hours. Now the services of grain cleaner were not required by the aforesaid hospital. She was not retrenched for all these reasons the workman was not entitled to any relief.
4. The workman filed her affidavit and that of Alex Pinto by way of examination in chief. They were cross examined by the counsel for the employer. Thereafter, the employer filed the affidavit of Dr. (Mrs.) Zeenat Kiduvai. She was cross examined by Mr. M.B. Anchan Counsel for the workman.
5. This tribunal had not framed any issues as the case was based on simple facts. No prejudice is caused to either party. However, the following preliminary points that emerge for adjudication in this award.
6. These two points were not pressed by the learned counsel for the employer in her oral arguments or in the written arguments. It is well established that Indian Railways is covered by the definition of industry within the meaning of Section 2(J) of the Act. The Jagjivan Ram Hospital is undisputedly a hospital run by the Western Railways. The decision of the Supreme Court in case Bangalore Water Supply and Sewage Board vs. Rajappa 1978 1 LLJ 349 has laid down that a hospital would be covered by definition of Industry. In view of this matter there is no substance in the claim of the employer that running of Railways is not a commercial function but a sovereign function of the Government of India. It is rather unfortunate that this kind of stand is taken on behalf of the Western or Central Railways and not pressed seriously at any stage. The public sector should not behave like an amoral person.
7. There is no merit in the statement that Union of India was a necessary party. The Western Railway is one of the several zones of Indian Railways. The Jagjivan Ram Hospital is run by the Western Railways. It is an industrial establishment and as such a unit of Indian Railways. The workman claims to have worked under DRM Bombay Division, Western Railway. It is he who is required to implement the award. It has not been shown that there is any mandatory legal provision in the Act or any other law that in such cases, the workman has to file an application to make Union of India as a party to the industrial dispute. The argument is rejected.
8. The next question of Smt. V. Chunilal is governed by Section 2(s) of the Act. In the written as well as oral arguments it has not been stated why Section 2(s) of the Act does not cover the workman. It is sought to be argued that workman was employed on commission basis in accordance with the availability of work. Smt. Zeenat Kiduvai admitted in cross examination that the workman was working as a grain cleaner since 1984. It is alleged by the employer that there is not post of grain cleaner in his written statement but fact of employment by Western Railway was not disputed. There was no specific plea raised in the written statement that workman was given work for cleaning the grains on payment of commission. No amount of evidence can be led for proving a fact which has not been specifically pleaded. That part Smt. Zeenat Kiduvai admitted in cross examination that she could not produce any document to support the case of employer that the workman was working on commission basis. She said that she was unable to produce even the receipts showing payments on commission. There is nothing on record to suggest that employer had employed the workman on commission basis. In view of the aforesaid, this tribunal accepts the version of the workman supported by evidence of Alex Pinto that the workman was working as a grain cleaner since 1984. The Western Railway has failed to produce any receipt showing that payment was made on commission basis. It is difficult to believe that no record would be kept of such payment because the employer is required to keep account of way payment being a public sector organization. The finding is the workman was employed as a casual workman and she continued to be so till 1996.
9. It is clear from evidence of the workman that she was employed as a casual labourer and was performing the work of grain cleaner in the Jagjivan Ram Hospital. She claimed she worked continuously from 1984 till 1996 as a casual labourer. She stated that she was entitled to temporary status. It was not awarded to her after 120 days of work. She had demanded. She had claimed that she had made representation. She admitted her signature on Exhibit M2 and M3. It is true that the attention of the workman to her admission in document M2 was not brought to her notice specifically but document that workman claimed in this application that she was paid an

average Rs. 50/- per month. In view of this admission the evidence of the workman and her witness Alex Pinto appears to be false. The evidence of Dr. Zeenat Kidwai that the workman worked for about six to seven days in a week appears to be correct. It appears to this tribunal that workman was a casual labourer and was given job of cleaning grains for 7 days in the week. She was given wages according to the work performed by her. She was not employed as a daily wager or substitute labour. Her application dated 19-2-93 also shows that she had prayed appointment as a substitute labour. She was told by letter dated 16-6-93 that she was not entitled to same treatment as Maniben and Smt. Vishalam as they were working as substitute labour. The workman was casual workman employed sporadically for 6 to 7 days in a month. She was doing job work. She, therefore, did not get any right to enter into the employment of the employer as a temporary labourer because she had never worked for 120 days continuously. The appointment letter and the master roll of Smt. Maniben and Smt. Vishalam placed by the employer at the instance of this tribunal show a different story. They were appointed as substitute labour. They were made temporary and then were regularized. The facts of the case of the workman are not identical. Therefore, she is not entitled to be regularized as a temporary labourer. It has been claimed on behalf of the workman that she has been retrenched in 1996. It is clear from the findings recorded above that workman worked for 7 days in a week from 1984 onwards. The contract was oral. In view of the aforesaid situation the cessation of the work of workman from 1996 onwards would not amount to retrenchment. The contract lasted till the grain for particular week were cleaned. The termination of contract is covered by exception (bb) to Section 2(oo) of the Act, which defines retrenchment.

10. For the all reasons aforesaid, this reference is not accepted by stating that Western Railways was justified in not regularizing the workman as a grain cleaner and giving her the benefit of absorption in service as temporary labourer. The workman is not entitled to any relief.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

का. आ. 2762.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं०-2, मुम्बई के पंचाट [संदर्भ संख्या सी.जी.आई.टी-2/122/98] को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-9-2003 को प्राप्त हुआ था।

[सं.एल.-41011/24/1997-आईआर(बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 4th September, 2003

S.O. 2762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/122/98) of the Central Government Industrial Tribunal No. II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway Mumbai and their workman, which was received by the Central Government on 03-09-2003.

[L-41011/24/1997-IR(B-I)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT:

S. N. Saundakar, Presiding Officer

REFERENCE No. CGIT-2/122 OF 1998

Employer in Relation to the Management of Western
Railway, Mumbai

The General Manager,
Western Railway,
HQ, Churchgate,
MUMBAI-400020.

V/s.

Their Workmen

The Secretary,
Indian Railway Technical Staff Association,
205, Sreenath Dham,
R. N. P. Park,
Bhayandar (East)-401105,
Dist. Thane.

APPEARANCES:

For The Employer : Ms. D. Fernandes,
Advocate holding for
Mr. Suresh Kumar.

For The Workmen : S/Shri A. B. Mishra &
B. M. Shukla,
Representatives.

Mumbai, dated 12th June, 2003.

AWARD

The Government of India, Ministry of Labour by its Order No. L-41011/24/97-IR(B-I) dated 11-8-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 and Corrigendum dated 26-2-99 have referred the following dispute

to this Tribunal for adjudication :

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>"1. Stop contract work for change of Track Sleepers, Fish Plates, Nut Bolts against Section 10 of Contract Labour Act.</p> <p>2. Maintenance of seniority, promotions, upgradation & regularisation of ad-hoc Khalasis, Mate Gangman & PWI Mistry</p> | <p>Whether the action of employer i.e. General Manager, Western Railway HQ, Mumbai (1) in not deputing the regular staff for maintenance of railway track is justified ? &</p> <p>In not maintaining up-to date seniority & by not granting promotion in favour of workmen working as ad-hoc Khalasi, Mate Gangman & PWI Mistry justified? If not, what relief the workmen are entitled to?"</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

2. Vide Claim Statement (Exhibit-5) the Indian Railway Technical Staff Association, Mumbai pleaded that the work of maintenance of Railway track is of regular nature i.e. perennial, and that safety factors are involved in the maintenance of track, therefore, technically trained staff is needed, consequently such work needs to be done from the regular employees of the Railway. It is contended however such work being allotted to the contract labourers. The Railway Department allot the work of repair of Railway tracks to the contractors named in Exhibit 'B' and that contractors get the work done through the labourers mentioned in Annexure 'A'. It is contended the Western Railway without obtaining registration certificate as required under Section 7 and the contractors concerned, without seeking licence under Section 12 of the Act, get the work of repairs of Railway tracks done which is illegal and for that the Railway needs to be prosecuted under Section 25 of the Act. It is contended that contract labourers engaged by the contractors do not get minimum wages though they do equal work, thereby the labourers are engaged in violation of the provisions of the Act with the sole object of getting contract labourers at the cheapest rate therefore the management be directed not allot the work of maintenance of Railway tracks to the contract labourers and it be directed to get such work done only through regular staff. It is further averred that the Railway administration has not maintained up to date seniority list, not giving promotions to the workers as ad-hoc Khalasi, Mate Gangman and PWI Mistry. It is contended as per the Railway Service Rules after every three years the seniority list is to be maintained however, list of the workers concerned has not been prepared therefore the management be directed to prepare the seniority list giving promotions. It is contended that Union had raised the demands under reference however those are not fulfilled by the Railway. By way of amendment (Exhibit-30) Union got deleted the names of contract labourers as mentioned in Exhibit-A.

3. Management Western Railway as seen from the Rojnama did not file written statement however, vide

application (Exhibit-16) they have sought liberty to cross-examine the witnesses examined by the Union. It is significant to note that management though did not file written statement, by many applications and giving say resisted the claim of Union contending that the work of track maintenance does not fall under the prohibited category and that it is for the appropriate Government to decide on that. It is pleaded that track maintenance work had never been deployed by the Railway to any contractor i.e. it is not being done through contract labourers. It is contended that change of track sleepers is done after a period of 10-15 years thereby it is not regular work. It is pleaded that the Railway have regular cadre and staff to maintain the track, therefore question of giving such work to contract labour does not arise. So far seniority for which Demand No. 2 was raised has been maintained up-to date about ad-hoc Khalasi, Mate Gangman, PWI Mistry etc. It is contended Union's claim being devoid of substance be dismissed with costs in limine.

4. On the basis of rival pleadings issues were framed at Exhibit-8 and in that context Smt. Shanta Pandurang Jadhav, Sunil Kondaji Sakharan, Shashikant Shivram Rao, Dinesh Natha Solanki have filed affidavits in lieu of Examination-in-Chief (Exhibit-10, 15, 17 & 18) on behalf of the Union and closed oral evidence vide pushis (Exhibit-22), In rebuttal, Assistant Engineer (Track) Mr. Meena filed affidavit (Exhibit-24) and the management closed evidence vide pushis (Exhibit-29). On perusal of the record it is seen when the matter was fixed for Award, on the application of Union (Exhibit-38) Issue No. 1A was framed and in that context General Secretary Indian Railway Technical Staff Association Mr. B. M. Shukla filed affidavit in lieu of Examination-in-Chief (Exhibit-41) and Union finally closed oral evidence vide (Exhibit-42) and in rebuttal Mr. Johnny Tharayil, Asst. Divisional Engineer (Track) filed affidavit (Exhibit-43) and the management finally closed evidence vide pushis (Exhibit-44).

5. Union filed written submission (Exhibit-34/37) and the management (Exhibit-35/36). On perusing the record as a whole and the written submission and hearing both sides at length, I record my findings on the issues for the reasons mentioned below :

Issues	Findings
1. Whether the action of the employer i.e. General Manager Western Railway in not deputing the regular staff for maintenance of the Railway track is justified?	Railway depute regular staff for maintenance of Railway track etc.
1A. Whether the demand of the Union to stop contract work for change of track sleepers, fish plates, nut-bolts in view of Section 10 of the Contract Labour Act is justified?	Does not survive.

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 2. If not, maintaining up-to-date seniority and by not granting promotion in favour of workmen working as an ad-hoc Khalasi, Mate Gangman and PWI Mistry justified? | Does not survive. |
| 3. If not, to what relief the workmen are entitled to? | As per order below |

REASONS

5. At the outset the Learned Representative for the Union Mr. Mishra inviting attention to the written submissions (Exhibit-34) urged that the management Western Railway substantially complied the Demand No. 2 on maintaining up-to-date seniority, grant of promotion to Khalasis, Mate Gangman etc., therefore Issue No. 2 does not now stand to reason. Union's witness Sunil Sakham Kondaji a Gangman in the Western Railway working in CPWI at Dadar disclosed much on irregularity committed by the management in connection with seniority list and the promotions however since the Railway has taken steps and thereby substantially complied the same the issue No. 2 does not survive.

6. The main grievance of the Union is that the Western Railway is giving work of change of track sleepers, fish plates, nut-bolts i.e. work of maintenance of track to contract labourers without deputing regular staff. It is the contention of Union that the Railway while giving the work to the contractors did not obtain registration as required under Section 7 and the contractors concerned also did not seek license as required under Section 12 of the Act. He further submitted that the management Railway does not give even minimum wages to the contract labourers much less the facilities/amenities as required under the Act and that management's this action is totally illegal. On the other hand Ms. Fernandes for the Railway submitted that only regular staff is deputed for track maintenance therefore question of giving such work to contract labourers does not arise. The crucial point is whether Railway gets the work of maintenance of Railway track done through the regular employees or the contract labourers. Sunil Kondaji working as Gangman in the Railway though deposed much on giving maintenance work to the contract labourers, in cross-examination clearly admitted that his work as Gangman is track maintenance and that there are about 500 Gangmen at Dadar who all are working for track maintenance. From this is apparent that the work of track maintenance is being done by regular Gangman of the Railway. Sashikant Rao who said to have worked as contract labour on Railway tracks though stated much on employing contract labourers for maintaining tracks is not in a position to tell on the contract if any taken place between Western Railway and the contractor. Shanta Jadhav who said to have working since 4-5 years as contract labour for cleaning tracks, garbage, gutter, dustbin etc. claims to be absorbed in the Railway service from the date of initial

engagement has grievance on getting less wages however she never complained to that effect to anybody. Had really said Shanta worked as contract labour on Railway tracks and getting less payment, would have complained to that effect, and had any contract taken place as deposed to by Sashikant Rao, he would have told at least name of a single contractor from which, an irresistible inference could be drawn is that, they did not work on Railway track, in as much as regular Gangmen of Railway Department look after that work. To substantiate the contention that Railway allot the work of maintenance of Railway tracks to contractors, Union Secretary Mr. Shukla stated that to protest the said action a strike was observed by the notice dated 1-1-1996. Union however has not filed copy of any of the agreements on record. When according to Mr. Shukla 50% regular track maintaining work is being done through contract labourers, he could have easily filed at least one copy of the agreement however that is wanting, therefore it is difficult to implicit reliance on his testimony that track maintenance work is being done by the contract labourers. That part, Mr. Shukla is not in a position to show any circular or any document that Railway Department is prohibited from giving work to contractors though he disclosed much on the consequences of not possessing registration certificate and license by the concerned, inviting penal action. At this juncture the Learned Counsel Ms. Fernandes inviting attention to the evidence of Assistant Divisional Engineer Mr. Tharayil and Assistant Engineer concerning to track Mr. Meena urged with force that in the absence of documentary evidence as regards the contract work and in view of the clear cut admission of Union witness Sunil Kondaji that 500 Gangman of Railway look after the track maintenance at Dadar, itself rule out the possibility of getting such work done through contract labourers therefore is no substance in the demand of the Union to stop giving such work to contract labourers, consequently the Union's contention on alleged breach of Contract Act does not stand to reason. On going through the evidence on record and the voluminous documents, it is apparent that the maintenance of Railway track is being looked after by the regular staff of Railway and that work of track repair, fish plates, and nut-bolts is not being given to the contract labourers and from this point of view, I find no substance in the submission of the Learned Representative for the Union Mr. Mishra. Consequently Union's claim being devoid of substance deserves to be dismissed. Issue No. 1, 1A & 3 are answered accordingly and hence the order :

ORDER

The claim of the union against the management Western Railway being devoid of substance stands dismissed.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

AWARD

The 26th August, 2003.

का० आ० 2763.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट [संदर्भ संख्या 11(C)/2003] को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-09-2003 को प्राप्त हुआ था।

[सं.एल.-12011/193/2001-आईआर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 4th September, 2003

S.O. 2763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [Ref. No. 11(C)/2003] of the Industrial Tribunal, Patna (BIHAR) as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workman, which was received by the Central Government on 03-09-2003.

[No. L-12011/193/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

OFFICE OF THE PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, PATNA

Reference No. 11(C) of 2003

Management of UCO Bank, Exhibition Road, Patna and their workman Shri Vijay Kuamr, Peon represented by the State Secretary, UCO Bank Employees Association, Exhibition Road, Patna.

For the Management : Mr. P. K. Chatterjee,
A. C. O. of the UCO Bank.

For the workman : Sri B. Prasad, State Secretary,
UCO Bank
Employees Association,
Exhibition Road,
Patna.

Present : Sri Priya Saran,
Presiding Officer,
Industrial Tribunal, Patna.

By adjudication order No. L/12011/193/2001-IR(B-II) dated 22-4-2002 the Government of India, Ministry of Labour, New Delhi has referred under clause (d) of Sub-section (i) and Sub-section (2-A) of Section 10 of the Industrial Dispute Act, 1947 (hereinafter to be referred to as 'the Act'), the following dispute between the management of UCO Bank, Patna and their workman Sri Vijay Kuamr, Peon for adjudication to this Tribunal:

"Whether the action of the management of UCO Bank, Patna in not regularising Shri Vijay Kuamr, Peon in justified? If no, what relief the workman is entitled to?"

2. Shortly stated, workman's case is that he was orally appointed by the UCO Bank to discharge the duty of a peon at Exhibition Road, Patna Branch of the Bank with effect from 18-5-1987. He continued in the Bank uninterruptedly since then. A settlement was arrived at apex level on 12-10-89 with workman's union for regularising the service of daily rated workers, who worked for 240 days during the period between 12-10-86 and 12-10-89. The management on scrutinising the claim of the workmen empaneled him for permanent absorption as a peon. The further case of the workman is that even after elapsing of several years of said settlement his services has not been regularised and he is being deprived of his legitimate claims as a permanent incumbent. As appeared no chance of his permanent absorption, the present dispute cropped up and consequently, the Reference, for a decision whether the action of the Bank concerned is not regularising the services of workman Sri Vijay Kumar is justified.

The State Secretary of UCO Bank Employee's Association appeared today before me making a clear statement that good reasons have now prevailed on the management, which has decided to permanently absorb the services of the workman Sri Vijay Kumar as peon and the dispute between them has ceased exist. A petition has also been filed by him with a prayer to pass a "No Dispute Award" in the light of his submission above.

3. It is well manifest in view of submissions placed before me by the State Secretary of UCO bank Employees' Association that the grievance of the workman Sri Vijay Kumar has been redressed by the management of UCO Bank and the same stands settled. In the circumstances aforesaid, it would be simply a futile exercise to go into the details of the claims and counter claims of the parties concerned and examine their varacity any more.

4. In the result, I hereby pass a No Dispute Award, which appears to be just and consistent on account of settlement of the controversy between the rival parties.

5. Award accordingly.

P. SARAN, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

का०आ० 2764.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के प्रंचाट (संदर्भ संख्या 89/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-9-2003 को प्राप्त हुआ था।

[सं. एल-12012/62/2001-आई आर (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 4th September, 2003

S.O. 2764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workman, which was received by the Central Government on 3-9-2003.

[No. L-12012/62/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 4th day of August, 2003

Industrial Dispute No. 89/2001

BETWEEN:

Smt. R. Sudha Rani,
W/o Sri R.S. Surya Prakash,
1-11-29, Golnaka, Alwal,
Secunderabad. ...Petitioner

AND

The Dy. General Manager,
Syndicate Bank, Zonal Office,
Pioneer House, 6-3-653,
Somajiguda,
Hyderabad-500082. ...Respondent

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar, K Udaya Sree, P. Sudheer Rao, E. Urmila, B. Shivakumar, A. Laxman & D. Madhusudhan, Advocates

For the Respondent : M/s. A. Krishnam Raju, G. Dinesh Kumar & G.V.N. Babu, Advocates

AWARD

This is a case referred by the Govt. of India, Ministry of Labour under Sec. 10(1)(d) by Order No.L-12012/62/2001/IR(B-II) dated 10/16-7-2001 between the management of Syndicate Bank and their workman and notices were issued to parties.

SCHEDULE

"Is the management of Syndicate Bank justified in terminating the services of Smt. R.S. Sudha Rani, Ex-clerk, Syndicate Bank? If so, what relief she is entitled to receive?"

This reference was registered an Industrial Dispute No.89/2001 and notices were issued to the parties.

2. The brief averments in the claim statement are: That the Petitioner joined the services of the Respondent bank as clerk on 11-8-1990. She was transferred to Alwal branch on 26-12-1991. Thereafter she was transferred to S.D. Road branch on 20-6-98. That she was placed under suspension vide memorandum dated 29-6-1998 on the allegation that she made certain irregularities while working at Alwal branch. Subsequently, she was issued with charge sheet dated 13-10-98. The charges were: (a) Made debit entry of Rs.15,000 in the S.B.A/c No.31983 of Smt. Seetha Rani Honda and Sri S.C. Honda on 8-1-98, withdrew the amount and misappropriated the same. (b) Made debit entry of Rs.4,000 in the S.B.A/c No.31463 of Smt. Lata Devi on 27-3-1998, withdrew the amount and misappropriated the same. (c) Made debit entry of Rs.2,000 in the S.B. A/c No. 30154 of Mrs. D.L. Archana on 29-5-98, withdrew the amount and misappropriated the same. In order to suppress the said acts she caused destruction/tampering of branch records. The Petitioner submitted detailed explanation dated 2-12-98. She was imposed punishment of dismissal on 8-10-99. The Petitioner preferred an appeal which was also rejected. But this Court by an order dated 16-12-2002 held that the domestic enquiry is validly held. All those details can be mentioned at the time of argument if so that as per the Petitioner's Counsel, the Enquiry Officer should not have come to the said conclusion. He therefore prays that the Petitioner be reinstated into service with back wages, continuity of service etc.

3. A counter was filed stating that so far as services are concerned it is a matter of record. That the Petitioner was placed under suspension vide memorandum No. 1349/275(13)/RS/SD dated 29-6-98 for irregularities committed while working at Alwal branch. The Petitioner has indulged

in forging the signatures of account holders of the bank and destroyed the evidence in the books of the bank. Therefore the punishment is in accordance with the gravity of misconduct committed by the Petitioner and not disproportionate at all. Enquiry was properly held. That it is proved that she has obtained withdrawn money from accounts and also forged and tampered the records. Hence, she deserves no sympathy and the reference may be ordered in favour of the bank.

4. As this Court held that by its order dated 16-12-2002 that the enquiry is validly conducted. Therefore, the only question that remains is whether the punishment awarded is proportionate to the gravity of the misconduct if not to what relief she is entitled.

5. It is argued by the Learned Counsel for the Petitioner that allegation against her is, (a) she made debit entry of Rs. 15,000 in the S.B.A/c. No. 31983 of Smt. Seetha Rani Honda and Sri S.C. Honda on 8-1-98, with dishonest intention and withdrew Rs. 15,000 fraudulently and misappropriated the same. (b) made debit entry of Rs. 4,000 in the S.B.A/c. No. 31463 of Smt. Lata Devi on 27-3-1998, withdrew the amount and misappropriated the same. (c) Made debit entry of Rs. 2,000 in the S.B. A/c. No. 30154 of Mrs. D.L. Archana on 29-5-98, withdrew the amount and appropriated the same. In order to suppress the said acts she caused destruction and tampering of bank records. That she has submitted detailed explanation. Yet, an enquiry was initiated against her. Five witnesses were examined on behalf of the Management and Petitioner examined herself in defence. 115 documents were marked on behalf of the Management. That there is no official record to fasten the irregularities of the Petitioner. The Petitioner was working as counter clerk during the relevant time. Every clerical work done by the Petitioner even checked and authenticated by Supervisory officers. No irregularity was pointed out by the Supervisory Officers during relevant time. That MW1 is the Dy. Chief Manager, Vigilance Department, who conducted investigation into the alleged incidents. Hence, he is not direct witness. MW2 is the government examiner for questioned documents. He gave his opinion on the available documents by comparing specimens furnished to him by MW1. MW3 is the Sub-Manager at Alwal branch when the incidents alleged to have occurred. MW4 is the Supervisor. She deposed that she did not authorize payment of withdrawal slip No. 054205 drawn on S.B. No. 30154. MW5 functioned as Cashier on 8-1-1990. He deposed on the basis of same entries recorded by him that he paid the amounts to the Petitioner on 8-1-98 and 27-3-98. In fact, on 27-3-98 he recorded a payment of Rs. 400 which he says is written by him as Rs. 4,000. MW1 has admitted in the cross-examination that he has collected handwritings of the only staff members who are present in the Department on 25-6-98 and Petitioner was specifically called to Alwal branch.

6. He has also accepted in cross-examination that he was not insisted for the specimen handwriting in particular fashion manner from the employee. He only asked them to write the names which he told them. The evidence of MW-1 clearly reveals that specimen writings of certain employees were sent to the examiner of Questioned documents. Thus, the findings of investigation and procedure adopted is only illegal and arbitrary. The first charge relies to withdrawal slip No. 771287 an amount from S.B. account No. 31983 of Smt. Sita Rani Handa. This document is not produced in the enquiry as it is alleged to be missing from the records of the branch. During the cross-examination he admits that the vouchers bundle dated 8-1-96 were placed in the joint custody of two officers and there is no record to show that the said voucher bundle was at any time made available to the Petitioner.

7. MW3 is one of the joint custodians also agreed during cross-examination that there is no evidence to show that the Petitioner was put in possession of voucher bundles held in the safe room at the joint custody at any time. Thus, there is no proof that the voucher bundle containing withdrawal slip No. 771287 on 8-1-96 was handed over to the Petitioner at any point of time. Hence, the charge that she caused destruction cannot be held proved. Since the withdrawal slip No. 771287 is alleged to be missing MW2 did not say regarding genuineness of the signature etc. However, MW2 says that the Petitioner has forged the signature. This shows biased and concocted stated to falsely implicate the Petitioner. No valid proof is there that the Petitioner has forged the signature of Smt. Sita Rani Handa that the portion of the ledger folio of the S.B. A/c. No. 31983 wherein the entry regarding withdrawal form No. 771287 is made on 8-1-96 is not produced in the enquiry as it is alleged to be missing. From the available portion of the folio the last balance of Rs. 16,550 is carried over by the Petitioner through a new folio and the entered new folio is authenticated by the supervisor. One has not seen that portion of ledger folio wherein entered, of 8-1-98 is purported to have been made. He has not seen as to who is responsible for tearing of the portion. There is no proof that the Petitioner has made an entry in the ledger folio on 8-1-1998 for Rs. 15,000 and she caused tearing of the relevant portion. It is alleged that the Petitioner on 8-1-99 has struck off entry of Rs. 15,000 and the totals for the day were altered in the subsidiary register and arrived at a sum i.e., less by Rs. 15,000 to conceal the detection of alleged fraud on the same day. MW1 has agreed that he has not witnessed the Petitioner striking off either Rs. 15,000 or the total. But, his presumption is that altered total is in the handwriting of the Petitioner. But alterations were not referred to Government Examiner for Questioned Documents. That the altered figure even to the naked eye is not in the handwriting of the Petitioner MW1 further stated that striking also is by the employer. His observations that striking are in the handwriting of the Petitioner shows his prejudice

and bias. It is further stated that the Petitioner while posting entries in the pass book has deliberately not entered the entry proceedings pertaining to withdrawal form. He confirmed in the cross examination that entry as on 5-2-98 is that of the Petitioner. In fact, in the evidence produced before the Enquiry Officer the entry on 5-2-98 is not in the handwriting of the Petitioner. This evidence is marked as Ex. M26. It is also proved that the Petitioner made the entry on 5-2-98. The entry in the pass book dated 5-2-98 is in the handwriting of some other staff. MW1 did not obtain the opinion of the Government Examiner for Questioned Documents regarding the entry dated 5-2-98. He confirms that it is not in the handwriting of the Petitioner on a presumption. As the entry dated 5-2-98 is not made by her stating that deliberately she did not entry the Rs. 15,000 on 8-1-98 cannot be held proved. Government Examiner for Questioned Documents, MW2 did not confirm that the entry as on 5-2-98 is in the handwriting of the since this document was not referred to him by MW1. As the withdrawal slip is not produced does not prove that it is withdrawn by token No. 135. He did not confirm that token No. 135 was available and in use on 8-1-98. The issuance of token No. 135 as on 8-1-98 was said to be for a single instrument, that too missing now. In fact MW1 has not confirmed it's use on 8-1-98. MW5 the Cashier has not explained as to why the token was held back by him without signing out for recirculation as in the case of other tokens. Hence, the procedure adopted by the Enquiry Officer is irrational. No document is there which can link entry in cash scroll under Item No.52 token No. 135. The document produced by the Management does not prove that a sum of Rs.15,000 was paid to Sudha Rani, the Petitioner.

8. The second charge is that she made debit entry of Rs. 4,000 in SB A/c No. 31463 of Smt. Lata Devi as on 27-3-98. It is stated that the issuance of the cheque book containing ten leaves from No. 864241 to 864250 was not recorded in the cheque issue register. Out of this cheque book No. 1 cheque leaf i.e., 864141 was drawn for Rs.4,000 and was encashed in SB A/c No. 31463 of Smt. Lata Devi on 29-5-98 by forging the signature of the account holder. MW1 agrees that there is no record to show that the Petitioner has obtained the cheque book containing leaves from 864241 to 864250. He also agreed that he could not say as to who ordered the entry of the details of cheque leaf in the ledger folio. There is no documentary or oral evidence to prove that the Petitioner got possession of cheque leaf No. 864241 nor that she ordered an entry of cheque No. 864241 in the ledger folio. MW1 on the basis of the report given by MW2 i.e., the Government Examiner for Questioned Documents said that the Petitioner forged the signature on the cheque 864241. MW1 does not have any independent knowledge. MW1 did not provide admitted handwritings of the Petitioner to MW2 for comparison. Yet MW2 comes out with a version that the cheque 864241 is forged by the Petitioner. D11 in M.Ex. 115 documents on

the basis of which MW2 arrived at his conclusions. These documents have not been produced in the enquiry. It is not established as to who is the author of M. Ex. 115. In the enquiry no evidence is produced that to say that D11 M. Ex. 115 is the admitted handwriting of the Petitioner. Since D11 in M. Ex. 115 is not produced in the enquiry the none could say as to whose admitted handwriting it is. It is said to have been drawn on token No. 131 but no evidence is produced to that effect. The record maintained by MW5 i.e., Cashier shows that again the token No. 131 only a sum of Rs. 4,000 paid. The cheque bearing No. 864241 was also does not say that the Petitioner has received the cash.

9. The allegation against her is that the Petitioner deliberately altered the balance from Rs. 19666 to Rs. 23666. The charge number three is that from SB A/c No. 30154 of M/s. D.L. Archana she has taken Rs. 2000 forging the signature of the depositor on the withdrawal slip No. 054205. No documentary evidence is submitted to prove that the Petitioner has forged the withdrawal slip. MW2 the expert could not say who has forged the signature of the depositor. In fact there is no evidence at all to prove any of the three charges against the Petitioner. Hence, he prays that she may be directed to be reinstated with back wages and all attendant benefits.

10. It is argued by the Learned Counsel for the Respondent that the charges are proved against the Petitioner and the gravity of misconduct is such that the lesser punishment cannot be imposed. As the Respondent bank lost confidence in the Petitioner and the Respondent bank being a bank and handles public money cannot take risk of entrusting work to persons like Petitioner who has indulged in forging the signatures of the account holders of the bank removing the documentary evidence. So the punishment need not be interfered. That the Hon'ble Supreme Court in 1983 2SLR page 233 in K.G. Jani Vs. State Bank of Saurashtra held that, the bank employees found guilty of acts involving moral turpitude or deliberate act of dishonesty are not to be shown any sympathy and any sympathy shown to them amounts to condoning corruption. In Janatha Bagan's case the Hon'ble Supreme Court held that once misappropriation is proved, showing sympathy is uncalled for. That during the enquiry it was established through oral and documentary evidence that the Petitioner originally totalled three cash debit entries as Rs. 21,500 and later on her own hand writing altered the figure as Rs. 6,500, apparently by deducting Rs. 15,000 in M.Ex. 25 and extracted the balance against SB A/c No. 31983 as Rs. 16,550 as on 20-1-98 as against current balance of Rs. 1,550. It also indicates that the Petitioner obtained the withdrawal form on 8-1-98 forging the signature of the account holder. Accordingly the Petitioner has obtained payment of Rs. 15,000 by signing on both sides of the withdrawal slips.

11. So far the second charge of Rs. 4,000 is concerned with making overwriting and altering in sub-day,

her preparation and in initialing OG 167 including Rs. 4,000 and giving correct figure to the day book, her altering the figure in sub-general ledger under debit as on 27-3-98 from Rs. 12214/- to Rs. 8214/- which is M.Ex. 95 and the Petitioner changing the balance of Rs. 19,066/- already extracted by another clerk against that account as on 31-3-1988 and the Petitioner deliberately omitted making entry of Rs. 4000/- in the pass book of the customer even though herself entered on Ex. 82 and she fraudulently withdrawn Rs. 4,000/- from SB A/c of the customer of the bank by forging her signature. Likewise about the withdrawal of Rs. 2,000/- from account No. 30154 of M/s. D.L. Archana on 29-5-98. That MW2's evidence may be gone through it clearly proves the offence of the Petitioner. Hence, in view of the Hon'ble Supreme Court Judgements and in view of the fact that the Hon'ble Court vide its order dated 16-12-2002 held that the domestic enquiry has validly conducted, she deserves no sympathy under Sec. 11A of the I.D. Act. Hence, the reference may be ordered in the negative.

12. It may be seen that the Petitioner was working at Alwal branch during the period between 1-11-93 and 20-6-1998. In the charge sheet there are three allegations against her. First allegation is that, a debit entry of Rs. 15,000 was made in SB A/c No. 31983 of Smt. Sita Rani Handa and Sri S.C. Handa as on 8-1-98. Second allegation is that a debit entry of Rs. 4,000/- in SB A/c No. 31463 of Smt. Lata Devi as on 27-3-98. And third allegation is that debit entry in SB A/c No. 30154 of M/s. D. L. Archana on 29-5-98.

13. The main crux of the arguments of the Learned Counsel for the Petitioner is that the complainants i.e., the account holders have not been examined during the said enquiry and eye witnesses have been examined. Merely non-examination of the complainants is not fatal. It may be seen that the evidence of MW2, the Government Deputy Examiner for questioned documents Sri Amar Singh cannot be just brushed aside and she has committed not once, but thrice and obtained pecuniary benefits of Rs. 15,000/-, Rs. 4,000/- and Rs. 2,000/-. If that be so and what happened and who repaid back the said amount is not coming to light.

14. Anyway, so far as these Rs. 15,000/- are concerned to debit entry in S.B. Account No. 31983 of Smt. Seetha Rani Handa and Sri S.C. Handa, it is found that the Petitioner has obtained a withdrawal slip bearing No. 771287 towards the account number and she herself made three entries but, subsequently cancelled one entry and altered the total be read as Rs. 16,550/-. The consolidated S.B. Sub-day book has been returned by her and she has shown the aggregate as Rs. 21,500/-. In the Manager's scroll as well as cashier's scroll the entry of Rs. 15,000/- is appearing. The cashier has also recorded in a separate note book on 8-1-98 having paid Rs. 15,000/- to her by, collecting token No. 135 from her. The said token number was issued only for slip No. 771287. MW2 has categorically stated that it is she who has written and he has gone through to check the

evidence. No doubt due to the torn in and missing of the documents and further it is not very clear as to who recouped the alleged amount and how the loss was compensated yet although it may not be technically beyond reasonable doubt as stated in a criminal case but mere fact that how the amount was paid and who paid. It does not mean that the Petitioner is not guilty. Moreover in view of the evidence of MW2 it is established that it was her fault. Moreover in view of the Judgement of the Hon'ble Supreme Court reported in 1990 (61) Delhi Transport Corporation vs. DTCM Congress (Supreme Court), the Hon'ble Supreme Court referred to L. Michael and another vs. M/s. Johnson Pumps India Ltd., "An employer who believes and suspects that his employee, particularly one holding a position of confidence, has betrayed that confidence, can, if the conditions and terms of employment permit terminate his employment and discharge him without any stigma attaching to the discharge". It may be seen that here a full-fledged enquiry has been conducted and she has lost the confidence of the bank. Moreover when such persons are supposed to deal with the property of the public that is the public money. Such persons cannot be allowed to be continued. Hence, I hold that the Management of Syndicate Bank is justified in terminating the service of Smt. R. S. Sudha Rani, Ex. Clerk, Syndicate Bank. Hence, she is not entitled to any relief.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 4th day of August, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
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Nil

Nil

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 4 सितम्बर, 2003

का.आ. 2765.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 55/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-9-2003 को प्राप्त हुआ था।

[सं. एल-12025/1/2003-आई आर (बी. II)]

सी. गंगाधरण, अवर सचिव



New Delhi, the 4th September, 2003

S. O. 2765.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 03-09-2003.

[No. L-12025/1/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismil, B.Sc., LL.B.,
Presiding Officer

Dated the 23rd day of July, 2003

Industrial Dispute No. L.C.I.D. 55/2003

(OLD I.D. No. 108/2000 transferred from Industrial Tribunal-cum-Labour Court, Guntur)

BETWEEN :

Sri P. Anjaneyulu,

C/o V. Mallik,

H. No. 3-6-725,

Street No. 11, Himayatnagar,

Hyderabad-29.

...Petitioner

AND

1. The Asstt. General Manager,

Union Bank of India,

Netaji Complex, Kaleswara Rao,

Road, Governorpet,

Vijayawada.

2. The Manager,

Union Bank of India,

Purchur, Prakasam District. ...Respondent,

APPEARANCES :

For the Petitioner : Sri V. Mallik, Advocate

For the Respondent : M/s. C.R. Sridharan,

G. Narender Reddy &

G.V.S. Reddy, Advocates

AWARD

This case I.D. No. 108/2000 is transferred from Industrial Tribunal-cum-Labour Court, Guntur in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 55/2003. This is a case taken under Sec. 2 A (2) of I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. In spite of several adjournments given from 24-3-2003 for enquiry of the Petitioner for seven adjournments including 23-7-2003 the petitioner has not turned-out. The petitioner is not evincing any interest. There is nothing on record to support the case of the Petitioner. Hence, a 'Nil' Award is passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 23rd day of July, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 4 सितम्बर, 2003

का. आ. 2766.— औद्योगिक विवाद अधिनियम, 1947 (1947 का. 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैनिक हॉस्पिटल के प्रबंधन के संबंध में निरदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 78/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-4012/13/97-आई आर (डी.यू.)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 4th September, 2003

S. O. 2766.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/98) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sainik Hospital and their workman, which was received by the Central Government on 04-09-2003.

[No. L-14012/13/97-IR (DU)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT NEW DELHI

PRESIDING OFFICER : SHRI B.N.PANDEY .

I.D.No.78/98

Smt.Kaushalya Devi wife of late shri Prem Lal,

Ex-Safai Karamchari,

R/o Balmiki Colony,

Patharya Peer,

Dehradun-248 001

.....Workman

Versus

Deputy Director of Medical Services,

U.P.Area, Bareilly Cantt.-243 001.Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-14012/13/97-I.R. (D.U.) dated 9-3-98 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of Sainik Hospital Dehradun in terminating the services of Smt. Kaushalya Devi wife of late Sh. Premlal, Ex-Safai Karamchari w.e.f. 23-12-92 is legal and justified? If not, to the what relief the worker is entitled?"

After filing photo copy of a few documents and her own affidavit of the workman the management also filed counter affidavit of one Col. D.S. Sohal with photo copy of certain documents. The case was adjourned for cross-examination of the workman but none of the either parties appeared for the last several dates.

3. In the circumstances it appears that the workman is now not interested in prosecuting the case. The evidence in the record is also not sufficient and the affidavit of the workman-herself is also not admissible and complete for want of her cross-examination by the other side. It is also not sufficient to prove her case. The case is, therefore, liable to be decided for want of prosecution and evidence. Therefore, no dispute award is given for want of prosecution and evidence and the workman is found entitled to no relief. No Dispute award is given accordingly.

B. N. PANDEY, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

का. आ. 2767.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में निरदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एलसीआईडी-7/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-40025/17/2003-आई आर (डी.यू.)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 4th September, 2003

S. O. 2767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-7/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 04-09-2003.

[No. L-40025/17/2003-IR (DU)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

PRESENT: - Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 26th day of July, 2003

INDUSTRIAL DISPUTE L.C.I.D. NO. 7/2002

(Old I.D. 2/1999 transferred from Industrial Tribunal-cum-Labour Court, Warangal)

BETWEEN:

Sri G. Sadanandam,

S/o Komuraiah,

C/o P. Surender Kumar,

H.No.7-1-367, Padmakshi Colony,

Hanamkonda.

.....Petitioner

AND

The Telecom Divisional Manager, Warangal.

.....Respondent

APPEARANCES:

For the Petitioner : Sri P. Surender Kumar, Advocate

For the Respondent: Sri M. Sada Sivudu, Advocate

AWARD

This case I.D. No. 2/1999 is transferred from Industrial Tribunal-cum-Labour Court, Warangal in view of the Government of India, Ministry of Labour's order No.H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D.No.7/2002. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of

the Hon'ble High Court of Andhra Pradesh reported in W.P. No.8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the claim petition are: That the Petitioner was sponsored from Employment Exchange, Warangal for the post of casual mazdoor on daily rate Rs. 6.25 ps. per day on 16-3-1982. As such he was engaged and worked continuously from 16-3-1982 to 22-11-1983. Suddenly, the Respondent terminated the Petitioner orally on 22-11-1983 without any lawful reason. He had put in 240 days of continuous service. The Respondent did not give any notice nor pay in lieu thereof on the date of his illegal termination.

3. It is submitted that the Petitioner worked as casual mazdoor at Warangal and Parkal under the supervision of Junior Engineer, Telecom, Warangal. The Respondent used to maintain musters and payment registers when the Petitioner worked in Respondent Telecom Department which prove the continuous work of the Petitioner. The Petitioner approached the Respondent on several times for employment but he was assured that they would avail his services as and when vacancy arise. Several other casual mazdoors who were engaged along with the Petitioner were retained and subsequently absorbed which was denied to the Petitioner. Due to his economic position he could not approach this Court immediately after his oral termination that is why delay in approaching this Court. He could not secure any alternate employment. He prays to direct the Respondent to set aside oral termination order dated 22-11-83 and reinstate the Petitioner as casual mazdoor with continuity of service with all consequential benefits and back wages.

5. A counter was filed stating that the Petitioner was engaged on services w.e.f. 16-3-1982. He was engaged purely on casual basis. The nature of services of the Petitioner were not regular. As and when work arise his services were utilized. He was disengaged also due to non-availability of work. The following are the working days of the Petitioner :

From	To	No. of Days
(1)	(2)	(3)
16-03-1982	25-03-1982	9 days
26-03-1982	31-03-1982	5 days
11-04-1982	03-04-1982	28 days
01-05-1982	31-05-1982	22 days
01-06-1982	30-06-1982	28 days

(1)	(2)	(3)
01-07-1982	31-07-1982	26 days
01-08-1982	31-08-1982	30 days
01-09-1982	30-09-1982	27 days
01-10-1982	31-10-1982	31 days
01-11-1982	30-11-1982	30 days
01-12-1982	31-12-1982	31 days
01-01-1983	31-01-1983	31 days
01-02-1983	28-02-1983	25 days
01-03-1983	31-03-1983	24 days
25-03-1983	30-04-1983	06 days
01-04-1983	30-04-1983	28 days
01-05-1983	31-05-1983	31 days
01-06-1983	30-06-1983	30 days
02-07-1983	31-07-1983	30 days
02-08-1983	31-08-1983	27 days
01-09-1983	30-9-1983	25 days
01-10-1983	13-10-1983	11 days
04-11-1983	22-12-1983	18 days

6. The question of termination does not arise as the petitioner himself abandoned from the services. As such, payment of notice pay and one month notice does not arise. It is true that Petitioner worked under the Junior Telecom Engineer, Warangal to that effect the Respondent also used to maintain musters and payment register. Petitioner have no right to take him no permanent duty as his services are casual in nature. The Petitioner never approached the respondent either to provide employment or to take him on services as and when work arises. The Department used to engage necessary workmen as and when work arises, the question of maintenance of seniority does not arise and the Petitioner never turned up to Respondent's office in anticipation of work. The Petitioner was never terminated by the Respondent neither orally nor in writing. Hence, it is prayed that the Petition may be dismissed.

7. The Petitioner deposed himself as WW1. He was sponsored from employment exchange, Warangal to work as a casual mazdoor in Telecom Department. He worked continuously from 16-3-82 to 22-11-83 at 6.25 ps per day. The Respondent used to pay salary on monthly basis and he used to sign in payment registers. He was terminated orally on 22-11-83 without any notice nor compensation. He worked from Gudepad to Mulugu of which musters and registers are with the Respondent. Despite his requests Respondent did not take him on job. Some of his batch mates namely, Subba Rao, Parvatha Reddy have been continuing in the Department and their services have been regularized. Due to financial condition and poverty he could not approach this Court. Ex.W1 is the card issued by the Respondent. Ex.W2 is the muster. Before his termination he worked for more than 240 days in a calendar year. He prayed for reinstatement with back wages. In the cross-examination he deposed that it is not true that he was terminated or retrenched as there is no work and he himself abandoned from duties. It is not true to suggest that there is no need to issue notice on the date of termination and that he did not approach the Respondent to provide him employment. It is not true to say that the system of casual mazdoor is abolished hence, the Petitioner cannot be engaged and that he did not work for 240 days continuously. It is not true to suggest that the works are being entrusted to contractors and there is no scope of his being engaged as casual labour by the Department.

8. Sri K. Venkateswarlu, Sub-Divisional Engineer (Vigilance), in the office of General Manager Telecom District, Warangal deposed as MW1. He deposed facts stated as in the counter filed by the Respondent. Annexed documents with the counter be marked as exhibits. The claim of the Petitioner is that he was engaged as casual mazdoor on muster rolls from 16-3-1982 to 22-11-1983, that he worked for 240 days and that he was orally terminated on 22-11-1983 and the same is false. He may be put to strict proof as the record is weeded out as per retention schedules prescribed in P & T FHB Vol. III (Ex.M1). There is no scope of termination with the expiry of period and job and there is no record at present to verify the same. The Department imposed ban on engagement of casual mazdoors vide DG P & T letter Nos.270/6/84-STN dated 30-5-1988, 22-6-88 and DOT, New Delhi Lr. No.369-4/93-STN-II(PT) dated 12-2-1999 marked as exhibits Ex.M2 to Ex.M4 thereby leaving no scope to engage any casual labour except for a period of 60 days. There is no record of Petitioner's representations seeking work after 1983. The dispute having been raised after 19 years is not fit for adjudication.

9. In the cross-examination he deposed that he has been working in Warangal District since 14 years. Ex.W1 and W2 are issued by the Telecom Department. It is not true to suggest that they orally terminated the Petitioner but he himself stopped coming. As he was casual labour no notice or memo was issued to him. There is no need of documentary proof for abandonment as he was a casual labour. It is not true to

suggest that he worked for 240 days in a calendar year and 560 days in total and the Department issued a notice or paid compensation in lieu thereof hence, he is entitled for reinstatement, back wages and continuity of service. From 1998 onwards Respondents are not engaging casual labourers. Those casual labourers who were working prior to 1998 and who are eligible, made permanent and others were terminated.

10. It is argued by the Learned Counsel for the Petitioner that he was sponsored by employment exchange and Ex.W1 shows that the Petitioner possesses employment exchange card No. 1859/82 and Ex.W2 shows the number of days worked and admittedly he has been terminated orally even according to MW1. Therefore he submits that he has completed more than 240 days and Sec.25-F has not been followed, therefore he is entitled for reinstatement with continuity of service, all consequential benefits and back wages.

11. It is argued by the Learned Counsel for the Respondent that he has not worked for 240 days in a year and even otherwise as he was a casual labour there is no question of termination and he took only 19 years to approach the Hon'ble Court and on that ground only he is not entitled for reinstatement. Further, there is no proof that he has made any representation to the Respondent in writing during these 19 years. He therefore prays that the Petitioner is not entitled for any relief.

12. It may be noted that the Petitioner has put in more than 240 days of service in a year even according to the Respondent, as per their counter where they have given details of the days he has worked. In fact for one year practically he has worked on almost all working days and sometimes even on sundays and public holidays. So the contention that he did not work for 240 days in a year is wrong. But, let us see the explanation given by the Petitioner for his approaching the Court after a gap of 19 years. According to him when he deposed as WW1 he states that he made several representations after the alleged oral termination but they did not take him in the job. The reason for not approaching the Court for 19 years is according to him poverty. In the cross-examination he denied that he never approached the Respondent for providing him job. The Petitioner's Counsel relied on LLJ 2000 page 1080 Supreme Court Cases where there was delay of 8 years in approaching the Court but their Lordships held that termination was held to be bad since it was violation of Sec. 25-F. It may be seen that there was a delay of 8 years and their Lordships did not direct full back wages but only 50% of the back wages from the date of raising the dispute and that was a case of a Junior Lecturer, here it is a question of casual labourer who in his chief examination admitted that he was sponsored from employment exchange, Warangal to work as casual labourer in Telecom Department on daily wages. Therefore, with all respects I am of the opinion that the Judgement cited will not

apply to the facts of the case. There in that case, it was a case of Junior Lecturer and it was 8 years delayed here, there is 19 years delay. Obviously not a single document is filed to show that he has made any attempts for getting re-employment and the reason given by him is poverty. One cannot digest that for all these 19 years he was not working. Therefore, I am of the opinion that an order directing reinstatement and back wages even from the date of filing the petition after a lapse of 19 years cannot be given to a casual labourer. Hence, the Respondent is directed that whenever they take any casual labour, they shall employ the Petitioner taking his seniority as 16-3-1982 but for future engagement. He should be given relaxation in age.

Award passed. Transmit.

Dictated to Ku. K. Phani Gowri, Personal Assistant transcribed by her, corrected and pronounced by me on this the 26th day of July, 2003.

E. ISMAIL, Presiding Officer

Appendix of Evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri G. Sadanandam	MW 1: K. Venkateswarlu
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Documents marked for the Petitioner

Ex.W1: Identity Card issued by the Respondent

Ex.W2: Musters of WW1 from 16-3-82 to 4-11-83

Documents marked for the Respondent

Ex.M1: Copy of schedule in P&T FHB Vol. III

Ex.M2: Copy of Ir.No.-270/6/84-STN dt. 30.3.1985

Ex.M3: Copy of Ir.No. 270/6/84-STN dt. 22.6.88

Ex.M4: Copy of Ir. No. 269-4/93-ASTN-II(Pt) dt. 12-2-99

नई दिल्ली, 4 सितम्बर, 2003

का. आ. 2768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक

ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 21/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-09-2003 को प्राप्त हुआ था।

[सं. एल-12012/326/92-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 4th September, 2003

S. O. 2768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/93) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 03-09-2003.

C. GANGADHARAN, Under Secy.

[No. L-12012/326/92-IR (B-II)]

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH.

Presiding Officer : Shri S.M. Goel

Case No. ID 21/93

Sh. Atma Ram S/o Sh. Laju Ram, Narot Colony,
Model Town, Room No. 273, Pathankot (Pb.)

.....Applicant.

V/S

Zonal Manager, Bank of India, Zonal Office,
Northern-Western Zone, S.C.O. 181-182, Sector 17-C,
P.B. No. 2, Chandigarh.

..... Respondent.

REPRESENTATIVES:

For the Workman : Sh. J.G. Verma

For the Management : Sh. N. K. Zakhmi.

AWARD

(Passed on 4-8-2003)

The Central Govt. Ministry of Labour vide Notification No. L-12012/326/92-IR (B. II) dated 19th January, 1993 has referred the following dispute to this tribunal for adjudication :

“Whether the action of the management of Bank of India in dismissing the services of Sh. Atma Ram, S/o Sh. Laju Ram, Sub-staff, w.e.f. 20-11-89, is justified ? If not, to what relief the workman entitled to?”

2. The workman in the Claim Statement pleaded that he was chargesheeted in connection with incidents relating to many events and inquiry was conducted but the Inquiry Officer has not conducted the Inquiry in a fair and proper manner and he had prejudge the things and thus the whole proceedings are bad in law on account of patent bias. The disciplinary authority was not empowered to impose the punishment and the punishment was also highly disproportionate and unjustified therefore, the facts of the case also deserves application of the provisions of Section 11-A of the I.D. Act. The workman thus prayed that he be reinstated in service holding the Inquiry not conducted in fair and proper manner with full back wages and other benefits.

3. In written Statement the management pleaded that the penalty of dismissal was imposed up on the workman after fair and just departmental inquiry in accordance with the Bipartite Settlement and also Principles of Natural Justice. The workman was chargesheeted for his various act of serious gross misconducts of abusing, using highly filthy provoking, derogatory language, threatening, assaulting, creating disorderly behaviours under the influence of liquor, refusal of lawful and reasonable orders of superior. The applicant was given all opportunities to examine the documents and also to cross-examine the witnesses of the Management. He was also allowed to adduce his evidence in accordance with the Principle of Natural Justice. The Inquiry Officer submitted his report to the disciplinary authority with a copy to the applicant and disciplinary authority gave show cause notice and personal hearing was also given to the workman and disciplinary authority finally imposed the punishments in respect of 8 charges under Bipartite Settlement. The appeal filed by the applicants was also dismissed and the punishment was confirmed. In all the management pleaded that the punishment was rightly imposed and the same is commensurate to the gravity of the misconduct proved against the workman, therefore, the applicant deserves no relief in the reference. The management also prayed that if for any reason the Tribunal hold that Principle of ‘audi-alterem partem’ have been infringed, the management would like to prove the charges before the Tribunal itself. The Management thus prayed that there is no merit in the reference and

the same be rejected.

4. Replication was also filed reiterating the claim made in the claim petition.

5. In evidence the applicant filed his own affidavit Ex. W1. In rebuttal the management produced MW1 Y.P.R. Paul who filed his affidavit Ex. M5 and also enquiry proceedings and documents Ex. M6 to M13 and Ex. M14 and M15.

6. I have heard the learned counsel for the parties and have gone through the evidence and enquiry proceedings and other documents.

7. The learned counsel for the workman has argued that the charges as enumerated in the charge sheet are not very serious and these are in the language mostly spoken in Punjab and these are not very serious which warranted for the dismissal from service. The learned counsel for the workman also argued that the enquiry was conducted ex-parte and the workman has never attended the enquiry proceedings. Therefore, the enquiry is vitiated and the workman is entitled for reinstatement with all benefits and backwages.

8. On the other hand the learned counsel for the management has argued that the workman was charge sheeted for various acts of gross misconduct and he was found guilty of eight charges which was proved during the enquiry proceedings. The applicant attended the enquiry proceedings on all dates and he was given full opportunity to defend himself during the enquiry proceedings as he has admitted in his cross-examination that he participated on all days of enquiry proceedings. He has also admitted that he attended the enquiry proceedings and signed the same on 26-6-1989 and the copies of the documents relied by the management were supplied to him. He has also admitted that one witness of the Management was examined and he refused to cross-examine the witness. He has also admitted that he attended the inquiry proceedings on 7-7-1989 and left the proceeding after some time. He further deposed that inquiry was conducted ex-parte after overruling his objection. He further admitted that show cause notice was given to him and he was also allowed personal hearing before inflicted the punishment of dismissal.

9. I have carefully gone through the record and considered the arguments of the learned counsel for the parties. I have also gone through the complete inquiry proceedings. The Inquiry conducted by the Inquiry Officer suffers from no infirmity as the workman was given full opportunity to defend himself during the course of enquiry. The workman was present on all the dates and he also examined and cross-examined the witnesses of the management. He admitted during the cross-examination that he attended the enquiry proceedings and also signed and he also received the copies of the documents on which

the management relied during the course of enquiry. The record of the enquiry further reveals that he himself on his own stopped coming to the enquiry proceedings. He has also admitted that show cause notice was given to the workman and he was also allowed personal hearing. The enquiry conducted by the enquiry officer is very extensive and exhaustive and the same was held in accordance with the principle of natural justice. On some occasion during the enquiry it is there in the record that the workman remained absent. But it was due to his own willingness that he remained absent from the enquiry and there was no cogent reason for remaining absent from the enquiry although he was attending the enquiry on earlier occasions. Therefore, I find no infirmity in the conduction of the enquiry proceedings and it is held that the enquiry has been conducted in accordance with the principle of natural justice and there is no infirmity in the enquiry.

10. The rep. of the workman has further sought the indulgence of this Tribunal in the punishment aspect of the matter U/S 11-A of the I.D Act 1947. I have gone through the charges levelled proved against the workman. The workman was charge sheeted for gross-misconduct for abusing the branch manager and threatening him time and again, creating disorderly scenes and making mockery of the office discipline etc. The indiscipline should not be tolerated in the offices and taking into consideration of the gravity of the charges, I do not find any ground to interfere in the punishment aspect of the matter and the workman deserves no relief U/S 11-A. Therefore, I find no ground to interfere in the action of the management and the workman was rightly dismissed from service. The workman is not entitled to any relief. The reference is answered against the workman. Central Govt. be informed.

S. M. GOEL, Presiding Officer.

04-08-2003
Chandigarh.

नई दिल्ली, 4 सितम्बर, 2003

का० आ० 2769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन०ई०पी०सी०एयरलाईंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, मुम्बई के पंचाट (संदर्भ संख्या 169/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-09-2003 को प्राप्त हुआ था।

[सं.एल.-11012/26/98-आई आर (सी-1)]

एस०एस०गुप्ता, अवर सचिव

New Delhi, the 4th September, 2003

S.O. 2769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.169/98) of the Central Government Industrial Tribunal/Labour Court II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 02-09-2003.

[No. L-11012/26/98-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT:

S.N. SAUNDANKAR, Presiding Officer

Reference No. CGIT-2/169 of 1998

EMPLOYERS IN RELATION TO THE MANAGEMENT OF SKYLINE NEPC AIRLINES

The Chairman & Managing Director,
Skyline NEPC Airlines,
36, Wallajah Road,
Chennai-600 002.

V/s.

THEIR WORKMEN

Mr. Vishal Sabherwal,
Flat No. 103, Eden III,
Hiranandani Complex,
Powai, Mumbai-400 076.

APPEARANCES:

For the Employer : Mr. M..B. Anchan,
Advocate.

For the Workman : Mr. Mohan Bir Singh,
Advocate.

Mumbai, dated 10th July, 2003.

AWARD

The Government of India, Ministry of Labour by its Order No. L-11012/26/98/IR(C-1) dated 7-12-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

क्या स्काईलाइन एन०ई०पी०सी०के प्रबन्धन द्वारा दिनांक 1-10-97 से श्री विशाल सभरवाल, फर्स्ट ऑफिसर, को सेवाएं समाप्त किया जाना न्यायोचित है ? यदि नहीं तो वे किस राहत के पात्र हैं ?

2. Mr. Sabherwal vide Statement of Claim (Exhibit-6) pleaded that he was appointed as Co-Pilot in Damania Airways on 15-12-1993 which was taken over by the management Skyline NEPC Airlines a Division of NEPC India Limited and since 10-5-1995 he was continued. It is averred that though Sabherwal served the Airlines with efficiency and loyalty, his services were abruptly terminated by the letter dated 1-10-1997 without giving him notice, notice pay and holding domestic inquiry as required under Section 25F of the Industrial Disputes Act. It is, therefore, the contention of Sabherwal that his retrenchment being illegal, the management Airlines be directed to reinstate him with full back wages.

3. Management Airlines company resisted the claim of Sabherwal by filing Written Statement (Exhibit-13) contending that Sabherwal was appointed as a First Officer w.e.f. 8-2-1994 and that since 16-5-1995 he was continued with management company. It is averred that due to impounding of Aircrafts and huge financial losses the Airlines was closed down from June 1997, and since there was no Aircrafts to fly, the services of Sabherwal were terminated, consequently question of his reinstatement does not arise and his claim being devoid of substance be dismissed.

4. By Rejoinder (Exhibit-14) Sabherwal reiterated the recitals in the Claim Statement denying the averments in the Written Statement.

5. On the basis of pleadings issued were framed at Exhibit-15 and in that context Mr. Sabherwal filed affidavit in lieu of Examination-in-Chief (Exhibit-10) and closed oral evidence vide purshis (Exhibit-17). Management Company however did not lead oral evidence vide purshis (Exhibit-18).

6. Management Airlines filed written submissions (Exhibit-19). On hearing the counsels and perusing the

record, I record my findings on the issues for the reasons mentioned below :

Issues	Findings
1. Whether the action of the management of NEPC Airlines in terminating the services of Shri Vishal Sabherwal, First Officer w.e.f. 1-10-1997 is legal?	Yes.
2. If not, what relief the workman is entitled?	As per order below.

REASONS

7. Admittedly Mr. Sabherwal was initially appointed by Damania Airways and later on continued in the service of the management company till his termination in the year 1997. The Learned Counsel Mr. Anchan for the company submits that Sabherwal was appointed as First Officer and that his duties were supervisory in nature, consequently he does not fall within the definition of 'workman' under Section 2(s) of the Industrial Disputes Act, therefore his claim is not maintainable. Mr. Sabherwal in his cross-examination para 9 clearly admitted that as Captain his duties were supervisory in nature. It is therefore apparent that since he was discharging supervisory duties, he was not a workman, consequently provisions of the I.D. Act do not come into play in the present case and on this count alone, claim does not stand to reason.

8. Assuming for a moment Mr. Sabherwal is a workman, his claim of reinstatement in service on merits also does not stand in as much as the NEPC Airlines was admittedly closed in May 1997 and that his last flight was on 22-5-1997. Since, the Airlines was closed thereby there was no Aircrafts to fly and as according to Mr. Sabherwal his services were terminated w.e.f. 1-10-1997 i.e. after the closure of the Airlines, question of his reinstatement does not arise. In view of the position Mr. Sabherwal's claim being devoid of substance, deserves to be dismissed. Issues are answered accordingly and hence the order :

ORDER

Action of the management of Skyline NEPC Airlines in terminating the services of Vishal Sabherwal w.e.f. 1-10-1997 is legal and therefore he is not entitled to any relief.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

Mumbai, dated the 4th July, 2003

का. आ. 2770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन ई पी सी एअर लाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, मुम्बई के पंचाट (संदर्भ संख्या 168/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-9-2003 को प्राप्त हुआ था।

[सं. एल-11012/10/98-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th September, 2003

S. O. 2770.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 168/98) of the Central Government Industrial Tribunal-cum-Labour Court-II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 2-9-2003.

[No. L-11012/10/98-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI****PRESENT**

S. N. Saundankar

Presiding Officer

REFERENCE No. CGIT-2/168 of 1998**EMPLOYERS IN
RELATION TO THE MANAGEMENT OF NEPC
AIRLINES**

The Chairman & Managing Director,
NEPC Airlines,
36, Wallajah Road,
Chennai-600 002.

V/s.

THEIR WORKMEN

Mr. Niranjana R. Chawathe,
2/C/206, Viman Darshan,
28-29, S. N. Marg,
Andheri (East),
Mumbai-400 069.

APPEARANCES:

FOR THE EMPLOYER : Mr. M. B. Anchan,
Advocate

FOR THE WORKMEN : Mr. Mohan Bir Singh,
Advocate

AWARD

The Government of India. Ministry of Labour by its Order No. L-1 1012/10/98/IR(C-I) dated 7-12-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of NEPC Airlines, in terminating the services of Mr. Niranjana R. Chawathe, Aircraft Maintenance Engineer w.e.f. 26-3-1997 is legal and justified? If not, to what relief the workman is entitled?"

2. Mr. Niranjana R. Chawathe vide Statement of Claim (Exhibit-6) pleaded that he was appointed as Aircraft Maintenance Engineer in the Airlines Company in the year 1996 and that he worked continuously with loyalty and honesty, however, without issuing notice, notice pay and retrenchment compensation and without following the provisions under Section 25F of the Industrial Disputes Act, he was abruptly terminated by the letter dated 30-4-1997. It is contended that Chawathe approached the ALC(C) in connection with his wrongful termination who in turn tried conciliation but failed. It is the contention of Chawathe that his termination being illegal and unjustified company be directed to reinstate him in service with full back wages.

3. Management Airlines Company resisted the claim of Chawathe by filing Written Statement (Exhibit-12) contending that Chawathe was appointed as a AME on probation and since his services during the probationary period were not satisfactory, he was not confirmed in the service and therefore he was terminated on 26-3-1997, therefore, question of issuance of notice, notice pay and retrenchment compensation does not arise. It is the contention of company that Chawathe was performing managerial and supervisory duties therefore he was not a workman and since company was closed since June, 1997 due to impounding of the aircrafts, question of his reinstatement does not crop up. For all these reasons company contended that Chawathe's claim being devoid of substance, be dismissed with costs in limine.

4. On the basis of pleadings issues were framed at Exhibit-14 and in that context Mr. Niranjana R. Chawathe filed affidavit (Exhibit-16) and closed oral evidence vide purshis (Exhibit-17). Management Company however did not lead evidence vide purshis (Exhibit-19).

5. Chawathe filed written submissions (Exhibit-20) and the company (Exhibit-21). On perusing the record, written submissions and hearing the counsels. I record my

findings on the issues for the reasons mentioned below :

Issues	Findings
1. Whether the action of the management of NEPC Airlines in terminating the services of Mr. Niranjn R. Chawathe, Aircraft Maintenance Engineer w.e.f. 26-3-1997 is legal and justified?	Action of the management is neither legal nor justified.
2. If not, what relief the workman is entitled?	As per order below.

REASONS

6. Admittedly Mr. Niranjn R. Chawathe was appointed as an Aircraft Maintenance Engineer w.e.f. 1-2-1996 and that his services were terminated from 26-3-1997 i.e. after completion of 240 days. According to Chawathe without giving him notice, notice pay and retrenchment compensation and without holding domestic inquiry he was terminated therefore his termination is illegal. Management Airlines Company did not lead oral evidence to rebut the same. Nothing to show that before terminating Chawathe Company complied the provisions of Section 25F of the Industrial Disputes Act. It is, therefore, apparent that his termination was contrary to the provisions of the Industrial Disputes Act and hence illegal and unjustified.

7. The Learned Counsel Mr. Anchan for the management Airlines submits that due to impounding of aircrafts and the financial losses in May, 1997 the Company was closed since June, 1997, therefore, question of reinstatement of Chawathe does not arise. It is apparently seen from record that Chawathe was illegally terminated w.e.f. 26-3-1997 and that Company was closed on 30th June, 1997, consequently he was entitled to reinstatement for the period April, May and June, 1997 with monetary benefits. On perusal of the record it is seen Chawathe had filed Application No. LC-2/52 of 1997 for recovery of arrears of pay and allowances and that my Learned Predecessor vide order dated 30-7-1998 holding Chawathe as workman within the definition of Section 2(s) of the Industrial Disputes Act had directed the company to pay him wages for February and March, 1997 thereby the pay and allowances for the period April, May and June, 1997 remained unpaid and that he is entitled to receive the same from the Company. Consequently issues are answered accordingly and hence the order:

ORDER

The action of the management of NEPC Airlines in terminating the services of Chawathe an Aircraft Maintenance Engineer w.e.f. 26-3-1997 is neither legal nor justified. The workman Chawathe though deserves to be reinstated since Airlines Company

closed since June, 1997 he is entitled for the pay and allowances of three months prior to closure i.e. April, May and June, 1997.

Management Company to pay the wages and allowances for the said period to workman Chawathe within three months from today.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

का. आ. 2771.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड एअर लाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 76-ए/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-9-2003 को प्राप्त हुआ था।

[सं. एल-11012/21/2002-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th September, 2003

S. O. 2771.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76-A/2002) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United Airlines and their workman, which was received by the Central Government on 3-9-2003.

[No. L-11012/21/2002-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESIDING OFFICER : Shri B. N. Pandey

I.D. No. 76-A/2002

1. Sandeep Bhatia
2. Santosh Kumar
3. Mrs. Bhawna Lohtia
4. Sunil Arora
5. Vishal Sharma
6. Ajay Sharma
7. Raj Singh Sehdev
8. Rakesh James
9. Desmond Hughe
10. Sandeep Sharma
11. Hanif Shaifullah
12. Nazrath D'Cunha

through United Airlines Employees Welfare

Association (Shri G.K. Umesh),
B-1/1360, Vasant Kunj,
New Delhi-110070

... Workmen

Versus

United Airlines,
A mandeep Building,
14, Kasturba Gandhi Marg,
New Delhi-110001

... Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012/21/2003-IR (C. 1) dated 28-8-2002 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the demand of the United Airlines Employees Association that Shri Dinesh Gambhir and 57 others workmen (list attached) be reinstated in service with full back wages and other benefits is legal and justified ? If yes, workmen are entitled to what relief and if not the compensation given to them by the management is legal ? If not, what directions are necessary ?”

2. The case of the aforesaid workmen was separated from the case of remaining workmen of I.D. No. 76/2002 on the request of the management and these 12 workmen as they were willing to compromise their case amicably in the Lok Adalat.

3. On the request of the parties the case was taken up for amicable settlement and disposal in the Lok Adalat. The workmen and the management through their representatives settled their dispute amicably in the Lok Adalat and accordingly A/R of the management also agreed to make payment of the settled amount to the workmen or their authorised representatives through Account Payee Cheque. Accordingly the management also deposited Account Payee cheque of settled amount in favour of the workmen separately detailed as below :

Sl. No.	Name	Cheque No.	Amount
1.	Hanif Shafulah	569387	Rs. 109116/-
2.	Nazarath D'Cunha	569385	Rs. 223037/-
3.	Sandeep Bhatia	569343	Rs. 028182/-
4.	Santosh Kumar	569340	Rs. 034126/-
5.	Mrs. Bhawna Lohtia	569353	Rs. 005613/-
6.	Sunil Arora	569320	Rs. 053880/-
7.	Vishal Sharma	569347	Rs. 027926/-
8.	Ajay Sharma	569323	Rs. 059412/-
9.	Raj Singh Sehdev	569351	Rs. 005613/-
10.	Rakesh James	569331	Rs. 042063/-
11.	Desmond Hughe	569357	Rs. 005613/-
12.	Sandeep Sharma	569367	Rs. 005613/-

Their cheques except those of Rakesh James, Desmond Hughe and Sandeep Sharma were distributed in the Lok Adalat through the Hon'ble Chief Guest the Hon'ble Labour Minister Dr. Sahib Singh Verma personally in the Lok Adalat on 26-11-2002 and three cheques of Rakesh James, Desmond Hughe and Sandeep Sharma were handed over in the custody of Shri B. R. Yadav, Secretary to the court with the direction to him to give it personally to them on their appearance with other necessary directions.

Later on at the time of dictation of the award, on perusal of the file, it was noticed that names of Shri Manif Shaifullaha and Nazarath D'Cunha A/R of Farshoghar Ankalesaria was not given in the list of names of workmen attached with the reference letter of the Ministry. Hence notice was issued to them to appear before the court and explain, and the award could not be given on account of that fact. After service of the notice they appeared and A. R. of the Management Shri Jeevesh Nagrath also appeared on behalf of the Management. They also moved an application that wrongly the names of two employees i.e. Mr. Hanif Shaifullah and Farshoghar Anklesaria was not mentioned in the reference list, that they had also written applications to the Secretary, Ministry of Labour to issue an amended list of names of the workmen including their names, that they (both the parties) had settled the matter amicably in the Lok Adalat held on 26-11-2002. Hence the error may be rectified and award may be given in terms of the settlement arrived at the Lok Adalat. Since the matter/dispute has been finally disposed of in the Lok Adalat, I feel that the award may be passed accordingly on the basis of the settlement arrived at the Lok Adalat. Therefore, the case is finally disposed of in view of the settlement arrived at in the Lok Adalat and this award is given accordingly.

B. N. PANDEY, Presiding Officer

नई दिल्ली, 4 सितम्बर, 2003

का. आ. 2772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन ई पी सी एअरलाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II मुम्बई के पंचाट (संदर्भ संख्या 158/98, को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-9-2003 को प्राप्त हुआ था।

[सं. एल-11012/12/98-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 4th September, 2003

S. O. 2772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 158/98) of the Central Government Industrial Tribunal-II Mumbai now as shown in the Annexure in the Industrial Dispute

between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 2-9-2003.

[No. L-11012/12/98-IR (C-1)]

S. S. GUPTA, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT:

S. N. Saundankar

Presiding Officer

REFERENCE No. CGIT-2/158 of 1998

EMPLOYERS IN RELATION TO THE MANAGEMENT OF NEPC AIRLINES

The Chairman & Managing Director,
NEPC Airlines,
36, Walajah Road,
Chennai-600 002.

V/s.

THEIR WORKMEN

Mr. Nariman Fali Mirza,
H/9, Nawroze Baug,
Lal Baug,
Mumbai-400 012.

APPEARANCES:

FOR THE EMPLOYER : Mr. M. B. Anchan,
Advocate
FOR THE WORKMEN : Mr. Mohan Bir Singh,
Advocate

Mumbai, dated the 27th July, 2003

AWARD

The Government of India, Ministry of Labour by its Order No. L-11012/12/98/IR(C-I) dated 7-12-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of NEPC Airlines, in terminating the services of Shri Nariman Fali Mirza, Aircraft Maintenance Engineer w.e.f. 30-4-1997 is legal and justified? If not, to what relief the workman is entitled?"

2. Shri Mirza vide Statement of Claim (Exhibit-6) pleaded that he was appointed as Aircraft Maintenance Engineer in the management Airlines Company in the year 1995, without issuing notice, notice pay and retrenchment compensation and that without following the provisions under Section 25F of the Industrial Disputes Act, he was terminated w.e.f. 30-4-1997. It is contended that Shri Mirza approached ALC (C) in connection with his wrongful termination who in turn tried conciliation but failed. It is

the contention of Mirza that his termination being illegal management be directed to reinstate him in service with full back wages.

3. Management Airlines company resisted the claim of Mirza by filing Written Statement (Exhibit-12) contending that Mirza was appointed as an Aircraft Maintenance Engineer on probation and since his services during the probationary period were not satisfactory he was not confirmed in the service and therefore he was terminated on 30-4-1997. Therefore question of issuance of notice, notice pay and retrenchment compensation etc. does not arise. It is the contention of Company that Mirza was performing managerial and supervisory duties therefore he was not a workman and since Company was closed during 1997 due to impounding of the aircrafts question of reinstatement does not arise. For all these reasons Company contended that Mirza's claim being devoid of substance be dismissed with costs in limine.

4. On the basis of pleadings issues were framed at Exhibit-13 and in that context Mirza filed affidavit (Exhibit-9) and closed oral evidence vide purshis (Exhibit-15). Management Company however did not lead evidence vide purshis (Exhibit-16).

5. Mirza filed written submissions (Exhibit-17) and the Company (Exhibit-18). On perusing the record, written submissions and hearing the counsels I record my findings on the following issues for the reasons mentioned below:

Issues	Findings
1. Whether the action of the management of NEPC Airlines in terminating the services of Shri Nariman Fali Mirza, Aircraft Maintenance Engineer w.e.f. 30-4-1997 is legal and justified?	Action of the management is neither legal nor justified.
2. If not, what relief the workman is entitled?	As per order below

REASONS

6. Admittedly Shri Mirza was appointed as Aircraft Maintenance Engineer w.e.f. 20-1-1995 and that his services were terminated from 30-4-1997 i.e. after completion of 240 days. According to Mirza without giving him notice, notice pay and retrenchment compensation and without holding domestic inquiry he was terminated and therefore his termination is illegal. Management Airlines did not lead oral evidence to rebut the same. Nothing to show that Airlines before terminating Mirza complied the provisions of Section 25F of the Industrial Disputes Act. It is, therefore, apparent that his termination was contrary to the provisions of the Industrial Disputes Act, and hence illegal.

7. The Learned Counsel Mr. Anchan for the management Airlines submits that due to impounding of aircrafts in May 1997 and the financial losses the Company was closed since June 1997, therefore, question of

reinstatement of Mirza does not arise. It is seen from the record that Mirza was illegally terminated w.e.f. 30-4-1997 and that Company was closed on 30th June, 1997, consequently, he was entitled to reinstatement for the period May and June '97 with monetary benefits. It is further seen from the record that Mirza had filed Application No. LC-2/53 of 1997 for recovery of arrears of pay and allowances and that my Learned Predecessor vide order dated 28-7-1998 holding Mirza as workman within the definition of Section 2 (s) of the Industrial Disputes Act, had directed the management Airlines to pay him wages and allowances prior to July '97 thereby the pay and allowance for the period of May and June remained unpaid and that he is entitled to receive the same from the management. Consequently, issues are answered accordingly and hence the order :

ORDER

The action of the management of NEPC Airlines in terminating the services of Mr. Nariman Fali Mirza, Aircraft Maintenance Engineer w.e.f. 30-4-1997 is neither legal nor justified. The workman Mirza though deserves to be reinstated, since Airlines closed on 30th June, 1997 is entitled for the pay and allowances of two months prior to closure i.e. May and June, 1997.

Management to pay the wages and allowances for the said period to workman within three months from today.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2003

का.आ. 2773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 119/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-9-2003 को प्राप्त हुआ था।

[सं. एल-22012/367/99-आई आर (सीएम-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure, in the Industrial Dispute between the management of FCI, and their workmen, received by the Central Government on 4-9-2003.

[No. L-22012/367/99-IR (CM-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT :

SHRI E. ISMAIL, Presiding Officer

Dated the 26th Day of July, 2003

INDUSTRIAL DISPUTE No. 119/2002

(Old I.D. No. 15/2000 transferred from Industrial Tribunal-I, Hyderabad)

Between :

The Secretary,
FCI Hamalie Workers Union,
Sattenapalli,
Guntur District.

... Petitioner

AND

The District Manager,
Food Corporation of India,
Arundal Pet,
Guntur,
Guntur District.

... Respondent

APPEARANCES :

For the Petitioner : M/s. Nooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K. Shavili,
Siva and K. Srinivasa Prasad,
Advocates

For the Respondent : M/s. B.G. Ravindra Reddy and
S. Prabhakar Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/367/99-IR (CM. II) dated 29-2-2000 referred the following dispute under Section 10(I)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal-I, Hyderabad between the management of Food Corporation of India and their workmen. In view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR (C. II) dated 18-10-2001 this case has been transferred to this Tribunal bearing No. ID 15/2000. The reference is.

SCHEDULE

"Whether the action of the management of FCI, Sattenapalli Storage Depot, Guntur District in not making payment to the workers from 1-1-98 onwards without any contract system is justified? If not, to what relief the workmen are entitled?"

The reference is numbered in this Tribunal as I.D. No. 119/2002 and notices issued to the parties.

2. After the reference was received Petitioners filed a claim statement. That the affected workmen are 95 Handling

Workers and 16 Ancillary Workers working for the last 15 to 20 years under the Respondent on the co-operative society basis. As per the directions of the Hon'ble Supreme Court the Respondent made all their contract labour employees on "Direct Payment system" through their order dated 5-11-97 to abolish the contract system besides the contract were also over on 31-12-1997.

3. The Respondent is having 27 depots in A.P. where direct payment system was adopted. The Respondent pursuing the headquarters circular issued on 5-11-97 and after careful consideration of the directions took a decision and then issued office order No. S & C. 18(5)/94-95-Vol. IV dated 23-6-1998 in pursuance of the instructions of their Senior Regional Manager, 95 Handling Workers and 16 Ancillary Workers as direct payment system and the workers were performing duties from 1-1-98. The said orders dated 23-6-98 were issued by the Respondent after receipt of the Headquarters' circular dated 5-11-1997 that is four or five months after marking copies to the various superiors and other officials.

4. All of a sudden without following the provisions of the Labour Laws more particular Section 9-A of the I.D. Act, the Respondent has changed/modified their orders on 25-7-98 and instead of taking 95 Handling Workers and 16 Ancillary Workers ordered for engaging only 30 Handling Workers and 14 Ancillary Workers which is contrary to the law and before taking such action the Respondent have not obtained any permission nor followed Sec.9A of the I.D. Act for changing the service conditions without the consent of the individual.

5. The workers had no option except go on strike from 1-8-98 to draw the attention and on representation, the matter was taken into conciliation by the officials of Labour Department and they used all their good offices to convince the Respondent but they were very much adamant. Hence, the failure report was submitted under Sec. 12(4) of the I.D. Act. The workers withdrew their strike from 24-11-98 and joined the duty. Each handling worker is entitled to get Rs. 78 per day and each ancillary worker Rs. 66 per day which is the minimum guarantee but the Respondent is so adamant and vindictive that they have not even offered or paid the wages to the 30 Handling and 14 Ancillary Workers till date.

6. After passing orders of direct payment system the Respondent in token also paid Rs.10000 to Handling Workers and Rs. 3000 to Ancillary Workers as an advance and also have deposited the EPF Contribution on 18-11-98 of all the 95 Handling Workers and 16 Ancillary Workers. This itself prove that if the modification order is to be adopted the question of remitting the EPF on 18-11-98 does not arise.

7. The poor workers from 1-1-98 to this date are facing much financial difficulties for not getting their wages regularly every month and this also amounts to

contradiction of the Payment of Wages Act. The Respondent is fully liable to pay even the damages and compensation from 1-1-98 to this date. The workers are maintaining their livelihood by borrowing on high interest rates, selling their movables and immovables. Hence, this Tribunal may kindly pass an award directing the Respondent to pay wages from 1-1-98 to the date of award with 12% interest and also impose exemplary costs.

8. A counter was filed by the Respondent that the FCI has got 33 godowns in Andhra Pradesh Region and large quantity of foodgrains are stored in the said godowns. Whenever there is any necessity, the stock will be moved to various places depending upon the requirement. In that process handling and transporting operations take place. Initially the FCI used to enter into contract with private contractors for the purpose of undertaking handling and transporting operations by engaging their own labour. While so, the Central Government has taken a decision to introduce the system of awarding this handling and transporting operations to labour contract co-operative societies from the year 1989. The societies were formed by the labourers themselves and they share the profits on the operations undertaken by the society. While so societies made a demand to the FCI to introduce the system of direct payment from FCI instead of payment through labour cooperative societies. The contract labourers working in the society resorted to strike an agitational activities in the A.P. region and they also got pressure from FCI workers Union, Kolkata. As a result a settlement was entered into by the FCI and FCI Workers Union on 29-9-97. Therefore, the FCI Headquarters, New Delhi issued instructions by its letter dated 5-11-97 introducing the productivity linked piece rate system on no work no pay basis in certain selected depots including Sattenapalli. The above said letter provides that the new system has to be introduced after the expiry of the subsisting contract and after completing the required formalities the subsisting contract expired on 31-12-97. Accordingly, the respondent started the process of introducing the new system by its letter dated 19-11-97. However, the society by its letter dated 12-12-97 refused to give willingness individually. As a result the new system could not be introduced from 1-1-98 after completing all the formalities. The labourers demanded induction of 101 Hamali labour and 17 ancillary labour of erstwhile society. Later on the office of the Senior Regional Manager pointed out that the order issued by the Respondent on 23-6-98 bringing all the 95 Handling Workers and 16 Ancillary Workers into the new system with effect from 1-1-98 is not in conformity with the procedure laid down in the letter dated 5-11-97 issued by the FCI Headquarters, New Delhi. Accordingly the Respondent has withdrawn the orders dated 23-6-98 by letter dated 10-7-98 and issued fresh orders dated 25-7-98 inducting 30 Hamalis Labourer and 14 Ancillary Labourers in the new system. The Respondent has also paid advances to the labourers at the rate of

Rs. 10000 to all the Hamali labourers and Rs. 3000 to all the Ancillary labourers who had actually worked from 1-1-98 to 30-6-98 as requested by them. The order dated 25-7-98 is fully in conformity with the orders of the Headquarters and also the settlement entered with the FCI workers union. The formula contained in the Headquarters instructions is :

$$\text{Number of Hamalis} = \frac{\text{Annual turnover/receipts issues in big bags}}{365 \times 90}$$

and as regards ancillary labourers, the formula is:

$$\text{Number of ancillary labourers} = \text{At the rate of 4 persons per 5,000 MTs covered capacity of the Depot.}$$

As per the above formula the number of Hamalis to be engaged into new system comes out to be 30 Hamalis and the number of ancillary labourers to be engaged into new system comes to 14. Although the above persons may be taken according to strictly seniority in their respective category. The workers aggrieved by the above action resorted to strike with effect from 1-8-98 demanding the engagement of the 95 Handling Workers and 16 Ancillary Workers. The matter was referred to ALC(C), Guntur and during the pendency of the proceedings 30 Hamalis and 14 Ancillary labourers resumed their duties from 25-11-98. Thereafter the proceedings before ALC(C) were closed. Meanwhile, the Regional Provident Fund Commissioner issued a notice calling the Respondent to remit the Provident Fund contributions and accordingly the contributions were remitted from 12-11-98 for the period from 1-1-98 to 30-6-98 for all the Hamalis and Ancillary Labourers to whom the advance payment was made treating the advance as wages pending finalization of the issue. The Senior Regional Manager of FCI Regional Office, Hyderabad took a decision to the period from 1-1-98 to 31-7-98 as extension of the Handling and Transport contract which expired on 31-12-98 and made payment accordingly to all the 95 Handling Workers and 16 Ancillary Workers. But the labourers are refused to receive the payments treating the period on contract system and represented the matter to the ALC(C) which resulted in the present Industrial Dispute. The Petitioner union being a party to the settlement as no locus standi to make the present demand which is contrary to the present settlement. The allegation that the order dated 23-6-98 was withdrawn by the Respondent without following the Sec. 9A of the I.D. Act is not correct. As the order dated 23-6-98 was withdrawn as it was in contravention of the instructions of the Headquarters and issued under bonafide mistake, question of Sec. 9A of the I.D. Act does not arise. The labourers have no independent right nor any claim then what is given in the settlement and in the Headquarters' circular. As the action taken by the Respondent is in conformity with the

settlement and instructions the same is legal and valid. The contention that all the 95 Handling Workers and 16 Ancillary Workers on their existing rates as on 1-1-98. From 1-8-98 to 24-11-98 as they were on strike they are not entitled to any wages. From 25-11-98 onwards 30 Hamalis and 14 ancillary labourers are entitled to payment under the new system and the Respondent has already offered amount granted on several occasions. In spite of clear opinion of the ALC(C) that there is no merit in the claim the Petitioner was adamant and insisted for reference of the dispute. Hence, an award may be passed holding there is no justification in the demand of the Petitioner union and that they are not entitled to any relief.

9. An additional claim statement was filed after the counter was filed stating that there are 33 godowns of the Respondent and one such storage godown is at Sattenapalli wherein 95 Handling Workers/Hamalis are working in the FCI godown, Sattenapalli in the past over 15 to 20 years. The capacity of Sattenapalli FCI godown is 16960 MTs. The turn over at Sattenapalli godown for the past 10 to 15 years was 50000 MTs per annum. The Handling Workers/Hamalis were initially engaged by private contractors in the FCI godown. Subsequently, the Central Government has taken a decision to introduce Labour Co-operative Societies from the year 1989. Accordingly all the Handling Workers/Hamalis have formed into co-operative societies and the present society's name is Sattenapalli FCI Modern Rice Mill Co-operative Society. The society was formed by the Handling Workers/Hamalis and the profits were shared by all the members of the society. The Petitioner further submits that the contract labourers who were working in the FCI godowns have been agitating before the FCI to absorb them in the FCI on permanent basis. Consequently an agreement was entered into between FCI Workers Union, Kolkatta and the FCI. The FCI has issued proceeding dated 5-11-97 bringing the Handling Workers/Hamalis under direct payment system and piece rate system. In the scheme so devised by FCI a formula was set out regarding the number of Handling Workers/Hamalis to be engaged in FCI godown that is,

$$\text{Number of Hamalis} = \frac{\text{Annual turnover/receipts issues in big bags}}{365 \times 90}$$

And according to the above policy decision another formula was also devised in respect of ancillary workers.

$$\text{Number of ancillary labourers} = \text{At the rate of 4 persons per 5,000 MT covered capacity of the Depot.}$$

The above policy has come into effect from 1-1-98 and the contract labour work in co-operative societies was abolished with effect from 31-12-97. The Petitioner further submits that the District Manager vide its orders dated 23-6-98 has got all the 95 Handling Workers/Hamalis and

16 Ancillary Workers in the Sattenapalli FCI godown under direct payment system with effect from 1-1-98. The Senior Regional Manager vide orders dated 25-7-98 modified the earlier order dated 23-6-98 and only 30 Handling Workers/Hamalis and 14 ancillary workers were brought under direct payment system. FCI godown at Sattenapalli is fully owned by FCI. The entire turnover of Guntur District is 3,50,000 MT per annum. The FCI instead of stocking its food grains in the fully owned FCI godown at Sattenapalli is arbitrarily engaging and utilizing the other godowns in Guntur District by paying crores of rupees. For example the FCI is utilizing Central Warehousing Corporation (CWC) godown in Guntur District which is only 10000 MT. FCI is extracting a total turnover of 30000 MT from the CWC in Guntur. In Narasaraopet the FCI hiring the State Warehousing Corporation (SWC) by paying huge amounts. The capacity of the said warehousing corporation at Narasaraopet is only 11000 MT but FCI is doing a turnover of 45000 MT and several such instances are given.

10. That the capacity of FCI godown at Sattenapalli is 16,960 MT where the turnover of the said FCI godown can easily raised to 1,00,000 MT and if the same is applied to the formula of the 95 Handling Workers and 16 Ancillary Workers can be adopted. The Petitioners have also represented to FCI and expressed their willingness to be posted to any other FCI godown in the State of Andhra Pradesh.

11. The 95 Handling Workers and 16 Ancillary Workers have been working in the FCI godown at Sattenapalli for the past 15 to 20 years and if they are thrown out of this employment at this juncture they will be put to irreparable loss and hardship. The action of FCI in diverting the stocks from FCI godown, Sattenapalli to other godown owned by State Warehousing Corporation and Central Warehousing Corporation is arbitrary, illegal and is being only to deny employment to the 95 Handling Workers and 16 Ancillary Workers in FCI godown, Sattenapalli. The FCI has also had a godown at Doguparthy in Sattenapalli itself and they have closed it in 1992 and the same work has diverted to Chilakaluripet. They requested the FCI to divert the work to Sattenapalli because it is only 20 KM from Doguparthy. But instead of diverting there they have diverted the work to Chilakaluripet which is 30 KMs. The FCI is paying huge charges toward hiring godown, paying handling charges to Hamalis, working in State Warehousing Corporation and Central Warehousing Corporations. If only FCI increased the turnover of Sattenapalli godown, it will incur less expenditure. They will not have to pay any thing extra to the 95 Handling Workers and 16 Ancillary Workers because they would become permanent employees of FCI. It is prayed to pass an award directing the Respondent to absorb them in FCI godowns on direct payment system in pursuance to the circular dated 5-11-97 issued by the FCI Headquarters, New Delhi.

12. An additional counter was filed stating that the additional claim statement is beyond the scope of the reference. They also gave formula :

$$\begin{array}{rcl} \text{Number of Handling Workers} & = & \frac{\text{Annual turnover (Receipts plus issues in big bags)}}{365 \times 90} \end{array}$$

and as regards ancillary labourers, the formula is :

$$\text{Number of ancillary labourers} = \frac{\text{At the rate of 4 persons per 5,000 MTs covered capacity of the Depot.}}{}$$

And the quantity of work that was available at Sattenapalli :

Year	Receipts (in MTs)	Issues (in MTs)
1995-96	38,258 tonnes	42,165 tonnes
1996-97	38,290 tonnes	31,105 tonnes
1997-98	16,656 tonnes	34,240 tonnes

That the godown will be taken up depending upon Mill Levy points and not only State Warehousing Corporation but also Central Warehousing Corporation and also if private godowns are taken on hire. It is not correct to suggest that the godown at Sattenapalli is not being fully utilized. FCI does not have any own godowns except at Sattenapalli. It is incorrect to suggest that crores of rupees being spent unnecessarily. And the claim is liable to be rejected.

13. The Petitioner Union examined Sri G. Velugonda Reddy who was former secretary of the Petitioners' society. Presently a member of the society. He deposed he is working as Hamali since 1982. Initially he was working for a private contractor. Subsequently all the Hamalis have formed into a co-operative labour society. The FCI has awarded the work contract to the above mentioned society. Initially the agreement is for two years, it has been extended from time to time. The FCI Headquarters abolished the contract system for awarding works and abolished the contracts with effect from 31-12-97. The society members gave their willingness letter dated 12-12-97 marked as Ex. W2. All the Hamalis have been absorbed with the FCI from 1-1-98 under direct payment system. The same reflected in the letter dated 8-12-97. The District Manager paid Rs.10000 in advance to each of the handling worker and Rs.3000 to each Ancillary worker as advance. When the ancillary workers have requested for payment of salaries the District Manager informed that payment of salaries will be delayed and he has paid the above advance and to all the Hamalis and ancillary workers and he stated in the chief examination what all is mentioned in the claim statement.

14. In the cross-examination he deposed that direct payment system was introduced as per settlement. That Ex.W3 instructions were issued by Headquarters of FCI for introducing direct payment system and no work, no

pay system in the A.P. region. The earlier contract with the Labour Contract Co-operative Society expired on 31-12-97. It is true that as per the settlement Hamalies and Ancillary Labourers will be engaged depending on the work available. Ex. W1 is filed by him and he knows the contents of the same. He does not know that as per the direct payment system only 30 Hamalies and 14 Ancillary workers will be engaged and not all the workers who worked in the co-operative society. All the labourers who were engaged by the Labour Department, Labour Contract Co-operative Society worked during the period from 1-1-98 to 31-7-98. Ex. W5 dated 23-5-98 was the first letter given to them informing the intervention of direct payment system of no work no pay basis. It is true that Ex. W5 office order was withdrawn by the Respondent on 10-7-98 on the ground that Ex. W5 was issued contrary to the settlement. It is not true to suggest that on 25-11-98 only 30 handling labourers and 14 ancillary labourers are working. That the settlement entered into between the FCI workers union and the management of the FCI is not cancelled and the same is still subsisting. He does not know whether the settlement is binding on all of them. In the re-examination he deposed that the distance between the Sattenapalli and Narasaraopet is just 20 KMs. The FCI has taken State Warehousing Corporation meant for storing tobacco, cotton on rent and storing food grains by paying huge rents and hamali charges. In the further cross-examination he deposed that the workers engaged at other various godowns which are hired from State Governments and Central Government are not the employees of FCI and not covered by their settlements.

15. The management examined Sri V. Ratna Prasad, Assistant Manager, General FCI, Guntur. He deposed in the chief examination what all is stated in the counter and in additional counter. He also stated in the chief examination that it is not possible to carry out all operations of the entire District from Sattenapalli which is having a more area of 16960 MTs. The food grains are stored in the godowns keeping in view of the public distribution system and levy points and operational convenience.

16. In the cross-examination he deposed that he is fully aware of the scheme introduced in the FCI Headquarters, New Delhi vide letter dated 15-11-97 wherein all the handling labourers and ancillary labourers were brought under direct payment system observing all formalities. Vide orders dated 23-5-98 all the workers were brought under direct payment system. FCI has paid PF contribution in respect of 95 Handling Workers and 16 ancillary workers from January, 1998 to July, 1998. He is not aware that the Hamalies of Central Warehousing Corporation godown, Sarangapur were absorbed in FCI under direct payment system. The capacity of Sattenapalli FCI godown is 16,960 MTs and they can increase the capacity of godowns by going on further height. Through orders dated 25-7-98 30 HT workers were brought under

the direct payment system. Most of the bags will be 70 kgs some will be 95 kgs. Presently all the bags contains of uniform weight 50 kgs.

17. The Learned Counsel for the Petitioner argued that it has come in evidence that the workmen concerned in the reference are 95 Handling Workers and 16 ancillary workers who are working for the last 15 or 16 years in the Respondent corporation on the cooperative society basis. As per the direction of the Hon'ble Supreme Court the Respondent made all the contract labour employees on direct payment system through their order dated 5-11-97 to abolish the contract system besides contract were also over on 31-12-97. They issued office order No.S&C.18(5)/94-95-Vol. IV dated 23-6-98 appointing all 95 Handling Workers and 16 ancillary workers under direct payment system and the workers were performing duties from 1-1-98. The said order was issued by the Respondent after receipt of the Headquarters' circular dated 5-11-97 that is four or five months after marking copies to the various superiors. That without following any provisions of Sec.9A of the I.D. Act. The Respondent has challenged/modified their orders on 25-7-98 and instead of taking 95 Handling Workers and 16 ancillary workers, engaged only 30 Handling Workers and 14 ancillary workers. The workers had gone on strike from 1-8-98 to draw the attention and the matter was taken into conciliation by the officer of the Labour Department but there was failure report and the matter was thus referred. Each handling worker is entitled to get Rs.78/-per day and each ancillary worker Rs.66/- per day which is the minimum guarantee but the Respondent is so adamant and vindictive that they have not even offered or paid the wages to the 30 Handling and 14 Ancillary Workers till date. Although after passing orders under direct payment system the Respondent in token also paid Rs.10,000/- to Handling Workers and Rs.3,000/- to Ancillary Workers as an advance and also deposited EPF contribution on 18-11-98 of all the 95 Handling Workers and 16 ancillary workers. So, it is clear that if the modification order is to be adopted the question of remitting the EPF on 18-11-98. So, they demand the wages with exemplary costs from 1-1-98. A counter was filed and after the counter was filed an additional claim statement was filed stating that there are 22 godowns of the Respondent and one such storage godown is at Sattenapalli where 95 Handling Workers are working in the FCI godown for the past 15 to 20 years. The capacity of Sattenapalli FCI godown is 16960 MTs. The turn over of Sattenapalli godown for the past 10 to 15 years was 50000 MTs per annum. The Handling Workers/Hamalies were initially engaged by private contractors in the FCI godown. Subsequently, the Central Government has taken a decision to introduce Labour Co-operative Societies from the year 1989. Accordingly all the Handling workers/Hamalies have formed into society. Later on as per agreement dated 5-11-97 all the workers were to brought under direct payment system and piece rate system. The

above policy came into effect from 1-1-98. All the workers were absorbed vide orders dated 23-6-98 but modified the order dated 25-7-98 and only 30 Handling Workers and 14 Ancillary workers were brought under direct payment system. The action of the FCI in diverting the stocks from FCI godown, Sattenapalli to other godown owned by State Warehousing Corporation and Central Warehousing Corporation is arbitrary, illegal and only to deny employment to the Sattenapalli godown for the past 10 to 15 years was 50000 MTs per annum. The Handling Workers/Hamalis were initially engaged by private contractors in the FCI godown. Subsequently, the Central Government has taken a decision to introduce Labour Co-operative Societies from the year 1989. Accordingly, all the Handling Workers/Hamalis have formed into a society in FCI godown, Sattenapalli. If the FCI increases the turn over of Sattenapalli godown, it will incur less expenditure. It is prayed to pass an award directing the Respondent to absorb them in FCI godowns on direct payment system.

18. He submits that this is an ancillary issue to the main reference and the Hon'ble Supreme Court vide 2002 (3) SCC page 544 held in *Indian Farmers Fertilizer Coop. Ltd., Vs. Industrial Tribunal-1, Allahabad*, where the reference was, "A reference was made to the Industrial Tribunal, Allahabad under the I.D. Act, 1947, as to whether it is justified for the appellant not to give work to 88 workmen whose names are mentioned in the annexure to the reference order from the date indicated against each one of them and, if not what consequential benefits should be given to them". Their Lordships held that, "when the stand of the appellant is that the workmen were not employees of the appellant but they were working under a contractor, necessarily the issue arose as to the nature of their employment in as much as the relief that would be granted to them would depend upon the same. In the circumstances the nature of their employment, whether directly by the appellant or through the contractor, was necessarily to be decided. Even otherwise, a full reading of the reference would show that there was no indication that they had been employed by a contractor but their services had been terminated from the respective date shown against them and whether the same was justified or not. In such a case, when a question was raised that the workmen in question were not the employees of the appellant, necessarily the Tribunal had to go into the question whether they were the employees of the appellant or not. On due appreciation of evidence, the Tribunal came to the conclusion that they are the employees of the appellant and that finding of fact was based on evidence. In our opinion, the conclusion reached by the Tribunal could not be seriously assailed by the Learned Counsel for the appellant. We find no justification to interfere with the award as affirmed by the High Court".

19. He further argues that now it is an admitted fact that the bags contain now have a standard weight of 50

KGs and not as previously of 70 to 90 KGs. Further he also stated that 11 Hamalis have been brought under the same system, besides the original 30 Hamalis and 14 ancillary labourers, another 11 have been provided. So, he submits that it is an ancillary question and the Tribunal may pass award directing the Respondent to absorb the remaining Hamalis and Ancillary workers.

20. The Respondent Counsel argued that there is nothing much to argue as the reference is,

"Whether the action of the management of FCI, Sattenapalli Storage Depot, Guntur Distt. in not making payment to the workers from 1-1-98 onwards without any contract system is justified? If not, to what relief the workmen are entitled?"

So the additional claim statement is having no value at all and it cannot be looked into nor the evidence be taken into account and for this he submits that he is supported by a Judgment reported in 2002 (4) LLN page 893 and Divisional Bench Judgment of the Senior Regional Manager, Hindustan Petroleum Corporation Ltd., and another vs. Presiding Officer, Industrial Tribunal—I, Hyderabad. Wherein reference was, "whether, entitlement of casual labours to regularisation, the Industrial Tribunal not only regularize but also directed to pay them in terms of pay scale on par with regular employees from 1-12-99. In the writ appeal although regularisation was upheld directing payment on par with regular employees was not held and the writ appeal was partly allowed holding that it is not incidental to the reference made". He therefore prays that the Petitioners are not entitled for any relief.

21. It may be seen that the reference is, "Whether the action of the management of FCI, Sattenapalli Storage Depot, Guntur District in not making payment to the workers from 1-1-98 onwards without any contract system is justified? If not, to what relief the workmen are entitled?" and in fact the claim statement was confined only to the said claim. Later on the amended claim statement was filed seeking a direction from this Court to the Respondents to absorb all of them in FCI godowns under direct payment system in pursuance of the required dated 5-11-97, issued by FCI Headquarters, New Delhi. It may be seen that during the evidence it is given that 30 workers out of 95 Handling and 14 ancillary workers were taken under direct payment system and further again 11 Hamalis were also absorbed. So in all the relief claimed for is out of 95 employees 41 are already working. So balance is 54 Handling Workers. Out of 16 ancillary workers 14 are working. It was argued and denied. During the counter arguments it was argued that these Petitioners although 41 are on pay rolls of direct payment system arrived in pursuance of a settlement yet all of them are working and sharing the wages. If this is really true, it is really audible that those who get only two loafs of bread are ready to give one loaf of bread to the less or under privileged. But, bound as I am by the law, I have to render Justice according to law. In Divine Justice, which is

privilege of God, or a sovereign with full powers can do, but our Courts are bound by law. That is why no doubt the main duty of the Courts is to render justice but according to law. That is why they are called as Court of Law. In fact there is not even any relationship between the reference made by the Government of India and what is pleaded by way of additional claim statement, that is, direction for absorption atleast in the case referred to by the Learned Counsel for the Respondent which was incidentally disposed off by me as Presiding Officer, Industrial Tribunal-I, Hyderabad. There was some scope on saying that the matter of payment on par with regular employees there was some base which was upheld by single Bench of the Hon'ble High Court. Further, in the Judgement cited by the Respondent counsel, the Division Bench stated that it is also not incidental and it was not a term of reference. Suffice it to say that this reference is only about payment of wages and which now during the argument was stated that the amount was accepted by the employees when tendered to them this was stated in the additional counter and the same was not denied. The main emphasis in the argument was for a direction to absorb the remaining workers under direct payment system, which I am afraid by no stretch of imagination can be incidental to the relief claimed. That is payment of wages from 1-1-98. However, the Management may consider the remaining Hamalis and Ancillary workers for appointing them under direct payment system as and when opportunity arises. Further, the said direct payment system is under settlement and if it is legally possible they can enter into another settlement. Further as stated the Petitioners having received amount for which the reference was made, are not entitled to any relief.

Award passed accordingly. Transmit.

Dicated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 26th day of July, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
WW1:	MW1:
Sri G. Velugonda Reddy	Sri V. Ratna Prasad

Documents marked for the Petitioner

Ex. W 1	: Copy of contract Ir. No. S&C 13(8)/conts.II dt.17-11-97
Ex. W 2	: Copy of willingness letter dt. 12-12-97 by the FCI MRMMW Labour Contract Co-op. Society Ltd.
Ex. W 3	: Copy of instructions vide Ir. No.IR(L)/31(21)/97 dt. 5-11-97
Ex. W 4	: Copy of Ir. No. S&C13(1)/FCI/FSD/SAP/97-98 dt. 8-12-97.
Ex. W 5	: Copy of O.O. No.S&C.18(5)/94-95. Vol. IV dt. 23.6.98

Ex.W 6	: Copy of Ir. No.S&C.18(5)/94-95. Vol. IV dt. 23-6-98
Ex.W 7	: Copy of EPF contribution statement
Ex.W 8	: Copy of Ir. No. S&C 13(1)SAP/FSD/DPS/97-98 dt. 25-9-98
Ex.W 9	: Copy of minutes of conciliation proceedings of ALC(C), dt. 10-5-99
Ex.W 10	: Copy of failure report No.8/1/99-ALC-VZA dt. 30-6-99
Ex.W 11	: Copy of reference order No.L-22012/367/99/IR (CM.II) dt. 29-9-2000
Ex.W 12	: Copy of notice by the Management for payment of wages
Ex.W 13	: Copy of representation to the Management for payment of wages dt. 29-1-2000
Ex.W 14	: Copy of representation to the Management for payment of wages dt. 29-1-2000
Ex.W 15	: Copy of representation to the Management for payment of wages dt. 3-11-98

Documents marked for the Respondent

EX.M 1	: Copy of Ir. No.S&C 13(1)/H&T/FSD/SAP/97-98 dt. 19-11-97
Ex.M 2	: Copy of willingness letter dt. 12-12-97 by the FCI MRMMW Labour Contract Co-op Society Ltd.
Ex.M 3	: Copy of Ir. No. S&C 18(5)/95-Conts. Vo.II dt. 10-7-98
Ex.M 4	: Copy of O.O. No.S&C 18(5)/794-95. Vol. IV dt. 25-7-98
Ex.M 5	: Copy of O.O. No.S&C 18(5)794-95. Vol. IV dt. 25-7-98
Ex.M 6	: Copy of minutes of conciliation proceedings dt. 3-12-98
Ex.M 7	: Copy of representation of Petitioners dt. 13-7-98 to the Respondent
Ex.M 8	: Copy of representation of Petitioners dt. Nil to the Respondent
Ex.M 9	: Copy of Sanction order No. S&C 139(5)/95-Vol. IV dt. 21-7-98

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2774.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या एल. सी. आई. डी. 228/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S. O. 2774.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L. C.I.D. 228/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 04-09-2003.

[No. L-22013/1/2003-IR (C-II)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT :

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 26th day of July, 2003.

INDUSTRIAL DISPUTE L.C.I.D. NO. 228/2002

Between :

Sri N. Komuraiah,
S/o Parvathalu,
C/o G. Ravimohan,
16-9-749/41/1, Race Course Road,
Old Malakpet,
Hyderabad-500 036

...Petitioner

AND

1. The Chief General Manager
(Personnel,
Administration),
Singareni Collieries Co. Ltd.,
Manugur,
Khammam District.

2. The Training Manager,
Technical Training Centre,
Manugur,
Khammam District.

... Respondent

APPEARANCES :

For the Petitioner : M/s. G. Ravimohan,
R. Devender Reddy,
Ch. Satyanarayana and
G. Srinivas Reddy,
Advocates

For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi and
C. Vijaya Shekar Reddy,
Advocates

AWARD

This is a case taken under Sec. 2A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petition are that the Petitioner was appointed as a EP Operator Trainee by the proceedings of the Respondent dated 16-7-1995. Since his appointment he had been discharging his duties to the utmost satisfaction of his superiors. That at the time of appointment the Petitioner has produced his Driving License which was obtained at RTA, Bilaspur. On the basis of that license he was appointed. Apart from the said driving license he was subject to driving test, written test and after verification of antecedents and all the documents, he was issued with appointment order. The Petitioner used to discharge his duties on excavator. The said vehicle is only used in the premises of the Respondent company for excavation works. The said vehicle is used for excavation work and excavation vehicle does not require any registration under Motor Vehicle Act. Hence, to operate the excavator no license is required.

3. On 25-2-1998 a charge sheet was issued to the Petitioner with the following charges :

25(1) "Theft, fraud or dishonesty in connection with the employers' business or property.

25(10) "Giving false information regarding ones' name and age, fathers' name, qualification etc., in connection with his employment."

4. The charges are false and unsustainable. The Petitioner obtained license from R.T.A., Bilaspur. The license has been renewed without any objection. The Petitioner has been imported with special training for operating the excavator. That the license is legal. After conducting enquiry, his services were terminated vide order dated 25-12-1998. Aggrieved by the said order he made a representation to the 1st Respondent dated 31-10-1998. As there was no reply from the Respondents the Petitioner filed WP No. 812/1999 before the Hon'ble High Court which was pleased to dispose off the said writ petition directing the Respondents to consider the representation dated 31-10-1998. Now, the Petitioner constrained to approach this Court.

5. That the Petitioner took his driving license at Bilaspur in the year 1986 while working in Bilaspur in United Constructions Company and subsequently, that license was transferred to the RTA, Karimnagar. He was transferred to Godavarikhani as United Constructions Company undertook work at Godavarikhani. Subsequently in view of the notification issued by the Respondent for appointment to the post of EP Operator the Petitioner was appointed in the post of EP operator with Respondent No. 2. Hence, he prays that the termination order dated

25-12-1998 may be set aside and direct the Respondents to reinstate the Petitioner into service with continuity of service, back wages and all consequential benefits.

6. A counter was filed stating that the Petitioner joined in the Respondent's company as EP Operator (Trainee). As per Clause 10 of the terms and conditions of the appointment order stipulates that the incumbent should always continue to hold valid Heavy Vehicle Driving License and that the renewal of the driving license will be his responsibility. Further, the expiry of its validity will render disqualified for the job and services will be terminated.

7. That the license submitted by the Petitioner was found to be a fake driving license. An enquiry was conducted after giving full opportunity to the Petitioner. The charges have been proved and he was dismissed. Aggrieved by the dismissal the Petitioner filed Writ Petition No. 812/1999 before the Hon'ble High Court of A.P. The Hon'ble High Court disposed off the same with a direction to consider the representation of the Petitioner dated 31-10-1998 and pass appropriate orders. In pursuance of that order his representation was considered and it was informed to him that his request to drop the charges levelled against him cannot be agreed to and the punishment of dismissal was awarded accordingly.

8. It is submitted that the Hon'ble Supreme Court in 'New India Assurance Company, Shimla Vs. Kamala and others' 2001 (3)SCALE page 18, while dealing with fake driving license at para-12 held as follows: ".....A fake license cannot get its forgery outfit stripped of merely on account of some officer renewing the same with or without knowing it to be forged. Section 15 of the Act only empowers any licensing authority to 'renew a driving license issued under the provisions of this Act with effect from the date of its expiry'. No licensing authority has the power to renew a fake license and, therefore, a renewal if at all made cannot transform a fake license as genuine. Any counterfeit document that it cannot a purported order of a statutory authority would ever remain counterfeit albeit the fact that other persons including some statutory authorities would have acted on the document unwittingly on the assumption that it is genuine."

9. As he was having a fake driving license he was dismissed. The Licensing Authority R.T.A., Bilaspur informed that driving license produced by the Petitioner was not issued from their office. On the basis of the report received from R.T.A. Authorities Bilaspur a charge sheet was issued to the Petitioner. During the enquiry none of the officials of R.T.A., Bilaspur were produced before him for identification of the license nor the author of the license has been examined is not correct. He has not submitted any documentary evidence which establishes that he has renewed his license. In fact, he is liable for prosecution. That valid driving license is a pre-requisite for being appointed as EP Operator. Hence, the Respondent

Management justified in insisting of heavy goods vehicle driving license. Hence, the petition may be dismissed.

10. The Learned Counsel for the Petitioner conceded that the domestic enquiry is validly conducted. Arguments heard by both the Counsels under Sec. 11A. The Learned Counsel for the Petitioner argued that the Petitioner was appointed after verification of all antecedents and documents and he was issued with appointment order. He used to discharge his duties on excavator. Excavation vehicle does not require any registration under Motor Vehicle Act. The Charges filed against him are false and unsustainable. The Respondents did not consider his representation dated 31-10-1998 submitted as per the directions of the Hon'ble High Court. That he took his driving license at Bilaspur, where he was working in United Constructions Company and subsequently, that license was transferred to the RTA, Karimnagar. He was transferred to Godavarikhani as United Constructions Company undertook work at Godavarikhani. Later, he was appointed as EP Operator in view of the notification issued by the Respondent. Hence, he prays that the termination order dated 25-12-1998 may be set aside and direct the Respondents to reinstate the Petitioner into service with all consequential benefits.

11. The Learned Counsel for the Respondents argued that the Petitioner joined in the Respondent's Company as EP Operator (Trainee). As per Clause 10 of the terms and conditions of the appointment order stipulates that the incumbent should always continue to hold valid Heavy Vehicle Driving License and that the renewal of the driving license will be his responsibility. Further, the expiry of its validity will render disqualified for the job and services will be terminated. It is submitted that the Hon'ble Supreme Court in 'New India Assurance Company, Shimla Vs. Kamala and others' 2001 (3)SCALE page 18, while dealing with fake driving license at para-12 held that No licensing authority has the power to renew a fake license and, therefore, a renewal if at all made cannot transform a fake license as genuine. As he was having a fake driving license he was dismissed. The Licensing Authority R.T.A., Bilaspur informed that driving license produced by the Petitioner was not issued from their office. He has not submitted any documentary evidence which establishes that he has renewed his license nor any witness that he has renewed the license. That valid driving license is a pre-requisite for being appointed as EP Operator. Hence, the Respondent Management justified in insisting of heavy goods vehicle driving license. Hence, the petition may be dismissed.

12. It is also surprising as to why did he obtain the driving license from Bilaspur. No doubt, he has undergone training but if that is condoned, then everyone will come and say the same, where a graduate is required he may submit a fake certificate and say that anyway the work is going on, therefore why should one insist for a genuine degree? So, the consequences may be fatal and there was

not much time lag also between his appointment and the enquiry and dismissal. Therefore, I hold that the order of dismissal is valid and the Petitioner is not entitled for any relief.

Accordingly the Award is passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 26th day of July, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the : Witnesses examined for the
Petitioner Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 सितम्बर, 2003

का० आ० 2775.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या एल. सी. आई. डी. 213/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार की 04-09-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई आर (सी-II)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2775.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C. I.D. 213/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 4-9-2003.

[No. L-22013/1/2003-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT,
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT
HYDERABAD

PRESENT : Shri E. ISMAIL, B. Sc. LL.B.,
Presiding Officer.

Dated the 26th day of July, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 213/2001

(Old I.D. No. 4/1998 Transferred from Industrial Tribunal-cum-Labour Court, Warangal)

BETWEEN;

Sri N. Srinivas,
S/o Rajalingu,
C/o G. Ravimohan,
16-9-749/41/1, Race Course Road,
Old Malakpet,
Hyderabad-500036.

...Petitioner

AND

1. The Chief General Manager (P),
Singareni Collieries Co. Ltd.,
Manugur, Khammam District.
2. The Training Manager,
Technical Training Centre,
Manugur, Khammam District.

...Respondent

APPEARANCES:

For the Petitioner

M/s. G. Ravimohan,
R., Devender Reddy,
Ch. Satyanarayana and
G. Srinivas Reddy,
Advocates

For the Respondent

: Sri J. P. Jhasarathy,
Advocate.

AWARD

This case I.D. No. 4/1998 is transferred from Industrial Tribunal-cum-Labour Court, Warangal in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 213/2001. This is a case taken under Section 2A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petition are that the Respondent mooted for special recruitment drive for S.C.s. and S.Ts. in the Company and issued notification in 1994. The Petitioner applied for the post of EP Operator. The Petitioner was selected in the written test and driving test. After verification of the relevant original certificates and after medical fitness the 1st Respondent issued appointment letter to the post of EP operator and directed to report for training at T.T.C. After completion of training the Petitioner was further directed to work under Senior Operator/Dumper Operator for the purpose of 'On the job Training'. The Petitioner was successful in the final test and was confirmed. The Petitioner used to discharge his duties on excavator. The said vehicle is only used in the premises of the Respondent company for excavation works. The said vehicle is used for excavation work and excavation

vehicle does not require any registration under Motor Vehicle Act. Hence, to operate the excavator no-license is required. The Petitioner has already undergone training and come out successfully in the training. Accordingly, he was appointed to the post of EP operator to the satisfaction of his superiors.

3. On 18/20-5-1996 a charge sheet was issued to the Petitioner with the following averments : That the Petitioner committed mis-conduct under companies standing Orders 25(1) and 25(10) :

25(1) "Theft, fraud or dishonesty in connection with the employers' business or property.

25(10) "Giving false information regarding ones' name and age, fathers' names, qualification etc., in connection with his employment."

4. The charges are false and unsustainable. The Petitioner obtained license from R.T.A., Hyderabad. The license has been renewed without any objection. The Petitioner has been imported with special training for operating the excavator. That the license is legal. Hence, the termination order may be set aside.

5. A counter was filed with the fact that the Respondent made special recruitment drive for S.C. and S.T. for the post of EP operator (Trainee) through paper advertisements in January, 1995. He was selected in the written and driving tests conducted by the Company and the Company offered him provisional appointment vide Office Order dated 27-6-95. After medical examination, he was directed to report to Training Manager. He did not complete his training. It is only after completion of training subject to passing of departmental test he will be posted as regular EP operator at Mines of Singareni Collieries Co. Ltd. He also underwent 'On the Job Training'. During such time, it has come to the notice that he has obtained fake driving license and on verification it was found to be wrong and he was chargesheeted and dismissed. It was Clause one of the conditions and terms of appointment which clearly stipulates as :

"This appointment is subject to your being medically found fit by the Company's medical Officer/Board, verification of your antecedents and original certificates, in proof of any age, qualification, caste, experience, etc. In case of any adverse reports about your antecedents and in case any information furnished by you regarding the age, qualification, caste, experience or any other information is found to be incorrect or false or suppressed any time, your services will be terminated forthwith without notice or further reference to you and without assigning any reason. In case of caste certificate, you have to submit recently issued certificate the date of issue of which should not be earlier than six months from the date of issue of this appointments order".

6. Still a regular enquiry was conducted. It is incorrect to state that Excavation vehicle does not have any registered number as per Motor Vehicle Act. In fact the Petitioner was given training to operate '35 tonne Dumper'. The Dumper Operator should possess valid license for driving heavy duty vehicles. As he was having a fake driving license he was dismissed. The Licensing Authority R.T.A., Hyderabad informed that driving license produced by the Petitioner was not issued from their office. He has not submitted any documentary evidence which establishes that he has renewed his license after 10-6-1996. In fact he is liable for prosecution. That valid driving license is a pre-requisite for being appointed as EP operator. Hence, the Respondent Management justified in insisting of heavy goods vehicle driving license. Hence, the petition may be dismissed.

7. Arguments were advanced on the same lines on validity of domestic enquiry by both the Counsels and this Court by an order dated 30th day of April, 2003 held that the domestic enquiry is validly conducted and in that order I have held that the Petitioner refused to have a defence representative, that Sri V. Brahmanandam, Manager, TTC, Manuguru was examined as MW1. The Petitioner did not cross-examine him and the chargesheeted workman examined himself wherein he stated that perhaps he was cheated by the broker. The Learned Counsel for the Petitioner argued that he was cheated by a broker and after all what is the loss to the company? In fact in such cases where the Petitioner is found fit for driving and undergone training he is having fake license will not make any difference, he could have been directed to undergo a test and get a new driving license and he deserves that much sympathy and anyway the order of dismissal is disproportionate to the alleged misconduct. Hence, he may be directed to be reinstated.

8. The Learned Counsel for the Respondent argues that this Court by an order dated 30th day of April, 2003 held that the domestic enquiry is validly conducted. In fact he did not cross examine himself and did not choose to cross-examine MW1, the only witness the Respondent examined in the enquiry. Further he himself gave a statement that he might have been cheated through broker and another thing is that why did he get a license from Hyderabad when he belongs to Khammam District? Hence, he does not deserve any sympathy.

9. It is also surprising as to why did he obtain the driving license from Hyderabad. No doubt, he has undergone training but if that is condoned, the everyone will come and say the same, where a graduate is required he may submit a fake certificate and say that anyway the work is going on, therefore why should one insist for a genuine degree? So, the consequences may be fatal and there was not much time lag also between his appointment and the enquiry and dismissal. Therefore, I hold that the order of dismissal is valid and the Petitioner is not entitled for any relief.

Accordingly the Award is passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 26th day of July, 2003.

E. ISMAIL, Presiding Officer

Appendix of Evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2776.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. 212/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2776.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. 212/2001) of the Central Government Industrial Tribunal cum Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 4-9-2003.

[No. L-22013/1/2003-IR(C-II)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

PRESENT:— Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 26th day of July, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 212/2001

(Old I.D.No. 3/1998 Transferred from Industrial Tribunal cum Labour Court, Warangal)

Between:

Sri G. Laxmaiah,
S/o Gattaiah,
C/o G. Ravimohan,
16-9-749/41/1, Race Course
Road, Old Malakpet,
Hyderabad - 500 036. ... Petitioner

AND

1. The Chief General Manager (P), Singareni Collieries Co.Ltd., Manugur, Khammam District
2. The Training Manager,
Technical Training Centre,
Manugur, Khammam District. ... Respondents

Appearances :

For the Petitioner : M/s G. Ravimohan,
R. Devender Reddy,
Ch. Satyanarayana and
G. Srinivas Reddy,
Advocates

For the Respondent: M/s K. Srinivasa Murthy,
V. Umadevi and
C. Vijaya Shekar Reddy,
Advocates

AWARD

This case I.D. No. 3/1998 is transferred from Industrial Tribunal cum Labour Court, Warangal in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D.No. 212/2001. This is a case taken under Sec.2 A (2) of the I.D. Act, 1947 in view of the judgment of the Honble High Court of Andhra Pradesh reported in W.P. No.8395 of 1989 dated 3.8.1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petition are that the Respondent mooted for special recruitment, drive for S.Cs. and S.Ts. in the Company and issued notification in 1994. The Petitioner applied for the post of EP Operator. The petitioner was selected in the written test and driving test. After verification of the relevant original certificates and after medical fitness the 1st Respondent issued appointment letter to the post of EP Operator and directed to report for training at T.T.C. After completion of training the Petitioner was further directed to work under Senior Operator/Dumper Operator for the purpose of 'On the Job Training'. The Petitioner was successful in the final test and was confirmed. The Petitioner used to

discharge his duties on excavator. The said vehicle is only used in the premises of the Respondent company for excavation works. The said vehicle is used for excavation work and excavation vehicle does not require any registration under Motor Vehicle Act. Hence, to operate the excavator no licence is required. The Petitioner has already undergone training and come out successfully in the training. Accordingly, he was appointed to the post of EP Operator to the satisfaction of his superiors.

3. On 10/12-7-1997 a charge sheet was issued to the Petitioner with the following averments: That the Petitioner committed misconduct—under companies Standing Orders 25(1) and 25(10):

- 25(1) "Theft, fraud or dishonesty in connection with the employers' business or property."
- 25(10) "Giving false information regarding ones' name and age, fathers' name, qualification etc., in connection with his employment."

4. The charges are false and unsustainable. The Petitioner obtained licence from R.T.A., Aurangabad. The licence has been renewed without any objection. The Petitioner has been imparted with special training for operating the excavator. That the licence is legal. Hence, the termination order may be set aside.

5. A counter was filed with the averment that the Respondent made special recruitment drive for S.C. and S.T. for the post of EP Operator (Trainee) through paper advertisements in January, 1995. He was selected in the written and driving tests conducted by the Company and the Company offered him provisional appointment vide Office Order dated 27-6-95. After medical examination, he was directed to report to Training Manager. He did not complete his training. It is only after completion of training subject to passing of departmental test he will be posted as regular EP Operator at Mines of Singareni Collieries Co.Ltd. He also underwent 'On the Job Training'. During such time, it has come to the notice that he has obtained fake driving licence and on verification it was found to be wrong and he was chargesheeted and dismissed. It was Clause one of the conditions and terms of appointment which clearly stipulates as:

" This appointment is subject to your being medically found fit by the Company's Medical Officer/ Board, verification of your antecedents and original certificates, in proof of any age, qualifications, caste, experience, etc. In case of any adverse reports about your antecedents and in case any information furnished by you regarding the age, qualification, caste, experience or any other information is found to be incorrect or false or suppressed any time, your services will be terminated forthwith without notice or further reference to you and without assigning any reasons. In case of caste certificate, you have to

submit recently issued certificate the date of issue of which should not be earlier than six months from the date of issue of this appointment order."

6. Still a regular enquiry was conducted. It is incorrect to state that excavation vehicle does not have any registered number as per Motor Vehicle Act. In fact the Petitioner was given training to operate '35 tonne Dumper'. The Dumper Operator should possess valid licence for driving heavy duty vehicles. As he was having a fake driving licence he was dismissed. The Licensing Authority R.T.O., Aurangabad informed that driving licence produced by the Petitioner was not issued from their office. He has not submitted any documentary evidence which establishes that he has renewed his licence after 10-6-1996. In fact he is liable for prosecution. That valid driving licence is a prerequisite for being appoint as EP Operator. Hence, the Respondent Management justified in insisting of heavy goods vehicle driving licence. Hence, the petition may be dismissed.

7. Arguments were advanced on the same lines on validity of domestic enquiry both by the Counsels and this Court by an order dated 31st December, 2002 held that the domestic enquiry is validly conducted and in that order I have held that the Petitioner refused to have a defence representative, that Sri V. Brahmanandam, Manager, T.T.C., Manuguru was examined as MW1. The Petitioner did not cross examine him and the chargesheeted workman examined himself wherein he stated that perhaps he was cheated by the broker. The Learned Counsel for the Petitioner argued that he was cheated by a broker and after all what is the loss to the company? In fact in such cases where the Petitioner is found fit for driving and undergone training, he is having fake licence will not make any difference, he could have been directed to undergo a test and get a new driving licence and he deserves that much sympathy and anyway the order of dismissal is disproportionate to the alleged misconduct. Hence, he may be directed to be reinstated.

8. The Learned Counsel for the Respondent argues that this Court by an order dated 31st December, 2002 held that the domestic enquiry is validly conducted. In fact he did not cross examine himself and did not choose to cross examine MW1, the only witness the Respondent examined in the enquiry. Further he himself gave a statement that he might have been cheated through broker and another thing is that why did he get a licence from Aurangabad when he belongs to Khammam District? Hence, he does not deserve any sympathy.

9. It is also surprising as to why did he obtain the driving licence from Aurangabad. No doubt, he has undergone training but if that is condoned, then everyone will come and say the same, where a graduate is required he may submit a fake certificate and say that anyway the work is going on, therefore why should one insist for a genuine

degree? So, the consequences may be fatal and there was not much time lag also between his appointment and the enquiry and dismissal. Therefore, I hold that the order of dismissal is valid and the Petitioner is not entitled for any relief.

Accordingly the Award is passed. Transmit.

Dictated to Kum. K Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 26th day of July, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses Examined for the Respondent
------------------------------------------	------------------------------------------

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2777.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. 201/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-9-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई आर (सी-II)]
एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2777.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. 201/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 4-9-2003.

[No. L-22013/1/2003-IR(C-II)]
S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT :—SHRI E. ISMAIL, B.Sc., LL.B
- Presiding Officer

Dated the 26th day of July, 2003
Industrial dispute L.C.I.D. No. 201/2001

(Old I.D.No. 8/1999 Transferred from Industrial Tribunal-cum-Labour Court, Warangal)

BETWEEN:

Sri G. Rajkumar,
S/o Mallaiah,
C/o. G. Ravimohan,
16-9-749/41/1, Race Course
Road, Old Malakpet,
Hyderabad—500 036

AND

1. The Chief General Manager (T&E),
Singareni Collieries Co. Ltd.,
Manugur, Khammam District.
2. The Training Manager,
Technical Training Centre,
Manugur, Khammam District.

.....Respondents

APPEARANCES:

For the Petitioner : M/s G. Ravimohan,
R. Devender Reddy,
Ch. Satyanarayana and
G. Srinivas Reddy,
Advocates

For the Respondent : M/s K. Srinivasa Murthy,
V. Umadevi and
C. Vijaya Shekar Reddy,
Advocates

AWARD

This case I. D No. 8/1999 is transferred from Industrial Tribunal-cum-Labour Court, Warangal in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C. I.D. No. 201/2001. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petition are that the Respondent mooted for Special recruitment drive for S.C.s and S.Ts in the Company and issued notification in 1994. The petitioner applied for the post of EP Operator. The Petitioner was selected in the written test and driving test. After Verification of the relevant original certificates and after medical fitness the 1st Respondent issued appointment letter to the post of EP Operator and directed to report for training on 27-6-95. The Petitioner after completion of training further directed to work under Senior Operator/Dumper Operator for the purpose of 'On the Job Training'. The Petitioner was successful in the final test

and was confirmed. The Petitioner used to discharge his duties on excavator. The said vehicle is only used in the premises of the Respondent company for excavation works. The said vehicle is used for excavation work and excavation vehicles does not require any registration under Motor Vehicle Act. Hence, to operate the excavator no licence is required. The Petitioner has already undergone training and come out successfully in the training. According, he was appointed to the post of EP operator to the satisfaction of his superiors.

3. On 10-7-1996 a charge sheet was issued to the Petitioner with the following averments. That the Petitioner committed mis-conduct under companies Standing Orders 25(1) and 25(10) :

- 25(1) "Theft, fraud or dishonesty in connection with the employers' business or property.
- 25(10) "Giving false information regarding ones' name and age, fathers' name, qualification etc., in connection with his employment."

4. The charges are false and unsustainable. The Petitioner obtained licence from R.T.A., Aurangabad. The license has been renewed without any objection. The Petitioner has been imported with special training for operating the excavator. That the license is legal. Hence, the termination order may be set aside.

5. A counter was filed with the averment that the Respondent made special recruitment drive for S.C. and S.T. for the post of EP operator(Trainee) through paper advertisements in January, 1995. He was selected in the written and driving tests conducted by the Company and the Company offered him provisional appointment vide Office Order dated 27-6-1995. After medical examination, he was directed to report to Training Manager. He did not complete his training. It is only after completion of training subject to passing of departmental test he will be posted as regular EP operator at Mines of Singareni Collieries Co. Ltd. He also underwent 'On the Job Training'. During such time, it has come to the notice that he has obtained fake driving licence and on verification it was found to be wrong and he was chargesheeted and dismissed. It was Clause one of the conditions and terms of appointment which clearly stipulates as :

"This appointment is subject to your being medically found fit by the Company's medical Officer/ Board, verification of your antecedents and original certificates, in proof of any age, qualifications, caste, experience, etc. In case of any adverse reports about your antecedents and in case any information furnished by you regarding the age, qualification, caste, experience or any other information is found to be incorrect or false or suppressed any time, your services will be terminated forthwith without notice or further reference to you and without assigning any

reasons. In case of caste certificate, you have to submit recently issued certificate the date of issue of which should not be earlier than six months from the date of issue of this appointment order".

6. Still a regular enquiry was conducted. It is incorrect to state that Excavation vehicle does not have any registered number as per Motor Vehicle Act. In fact the Petitioner was given training to operate '35 tonne Dumper'. The Dumper Operator should possess valid license for driving heavy duty vehicles. As he was having a fake driving license he was dismissed. The Licensing Authority R.T.O., Aurangabad informed that driving license produced by the Petitioner was not issued from their office. He has not submitted any documentary evidence which establishes that he has renewed his license after 10-6-1996. In fact he is liable for prosecution. That valid driving license is a prerequisite for being appointed as EP operator. Hence, the Respondent Management justified in insisting of heavy goods vehicle driving license. That was so held by Industrial Tribunal-I, by its award dated 19-11-98 in ID 45/97 (as Central Government establishments cases were decided by Industrial Tribunal-I before formation of this Court). Hence, the petition may be dismissed.

7. Arguments were advanced on the same lines on validity of domestic enquiry by both the Counsels and this Court by an order dated 31st December, 2002 held that the domestic enquiry is validly conducted and in that order I have held that the Petitioner brought his Co-worker Shri J. Prabhakar as defence representative, that Sri V. Brahmanandam, Manager, TTC, Manuguru was examined as MW 1. The Petitioner and Co-workers did not cross examine him and the chargesheeted workman examined himself wherein he stated that perhaps he was cheated by the broker. The Learned Counsel for the Petitioner argued that he was cheated by a broker and after all what is the loss to the company? In fact in such cases where the Petitioner is found fit for driving and undergone training, he is having fake license will not make any difference, he could have been directed to undergo a test and get a new driving license and he deserves that much sympathy and anyway the order of dismissal is disproportionate to the alleged misconduct. Hence, he may be directed to be reinstated.

8. The Learned Counsel for the Respondent argues that this Court by an order dated 31st December, 2002 held that the domestic enquiry is validly conducted. In fact he did not cross examine him nor his defence representative who is a co-worker Sri J. Prabhakar did not choose to cross examine MW1, the only witness the Respondent examined in the enquiry. Further he himself gave a statement that he might have been cheated through broker and another thing is that why did he get a license from Aurangabad when he belongs to Khammam District? Hence, he does not deserve any sympathy.

9. It is also surprising as to why did he obtain the driving license from Aurangabad. No doubt, he has under-

gone training but if that is condoned, then everyone will come and say the same, where a graduate is required he may submit a fake certificate and say that anyway the work is going on, therefore why should one insist for a genuine degree? So, the consequences may be fatal and there was not much time lag also between his appointment and the enquiry and dismissal. Therefore, I hold that the order of dismissal is valid and the Petitioner is not entitled for any relief.

Accordingly the Award is passed. Transmit.

Dictated to Kum. K Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 26th day of July, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined
for the petitioner

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2778.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. 211/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2778.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. 211/2001) of the Central Government Industrial Tribunal cum Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 4-9-2003.

[No. L-22013/1/2003-IR(C-II)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ATHYDERABAD

PRESENT : SHRI E. ISMAIL, B.Sc., LL.B.,

Presiding Officer

Dated the 26th day of July, 2003

INDUSTRIAL DISPUTE L.C.I.D NO. 211/2001

(Old I.D.No. 2/1998 Transferred from Industrial Tribunal cum Labour Court, Warangal)

BETWEEN:

Sri A. Posham,
S/o Laxmaiah,
C/o. G. Ravimohan,
16-9-749/4/1, Race Course Road,
Old Malakpet,
Hyderabad—500036

...Petitioner

AND

1. The Chief General Manager (P),
Singareni Collieries Co. Ltd.,
Manugur, Khammam District.

2. The Training Manager,
Technical Training Centre,
Manugur, Khammam District.

....Respondents

APPEARANCES:

For the Petitioner : M/s G. Ravimohan,
R. Devender Reddy,
Ch. Satyanarayana and
G. Srinivas Reddy,
Advocates

For the Respondent : M/s K. Srinivasa Murthy,
V. Umadevi and C.
Vijaya Shekar Reddy,
Advocates

AWARD

This case I. D No. 2/1998 is transferred from Industrial Tribunal cum Labour Court, Warangal in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D No. 211/2001. This is a case taken under Sec. 2 A (2) of the I.D Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P No. 8395 of 1989 date 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petition are that the Respondent mooted for Special recruitment drive for S.Cs

and S.Ts in the Company and issued notification in 1994. The petitioner applied for the post of EP Operator. The Petitioner was selected in the written test and driving test. After verification of the relevant original certificates and after medical fitness the 1st Respondent issued appointment letter to the post of EP operator and directed to report for training at T.T.C. After completion of training the Petitioner was further directed to work under Senior Operator/Dumper Operator for the purpose of 'On the Job Training.' The Petitioner was successful in the final test and was confirmed. The Petitioner used to discharge his duties on excavator. The said vehicle is only used in the premises of the Respondent company for excavation works. The said vehicle is used for excavation work and excavation vehicles does not require any registration under Motor Vehicle Act. Hence, to operate the excavator no licence is required. The Petitioner has already undergone training and come out successfully in the training. Accordingly, he was appointed to the post of EP operator to the satisfaction of his superiors.

3. On 12-7-1996 a charge sheet was issued to the Petitioner with the following averments. That the Petitioner committed mis-conduct under companies Standing Orders 25(1) and 25(10) :

- 25(1) "Theft, fraud or dishonesty in connection with the employers' business or property.
- 25(10) "Giving false information regarding ones' name and age, fathers' name, qualification etc., in connection with his employment."

4. The charges are false and unsustainable. The Petitioner obtained license from R.T.A., Aurangabad. The license has been renewed without any objection. The Petitioner has been imported with special training for operating the excavator. That the license is legal. Hence, the termination order may be set aside.

5. A counter was filed with the averment that the Respondent made special recruitment drive for S.C. and S.T. for the post of EP operator (Trainee) through paper advertisements in January, 1995. He was selected in the written and driving tests conducted by the Company and the Company offered him provisional appointment vide Office Order dated 27-6-95. After medical examination, he was directed to report to Training Manager. He did not complete his training. It is only after completion of training subject to passing of departmental test he will be posted as regular EP operator at Mines of Singareni Collieries Co.Ltd. He also underwent 'On the Job Training'. During such time, it has come to the notice that he has obtained fake driving license and on verification it was found to be wrong and he was chargesheeted and dismissed. It was Clause one of the conditions and terms of appointment which clearly stipulates as :

" This appointment is subject to your being medically

found fit by the Company's medical Officer/Board. verification of your antecedents and original certificates, in proof of any age, qualifications, caste, experience, etc. In case of any adverse reports about your antecedents and in case any information furnished by you regarding the age, qualification, caste, experience or any other information is found to be incorrect or false or suppressed any time, your services will be terminated forthwith without notice or further reference to you and without assigning any reasons. In case of caste certificate, you have to submit recently issued certificate the date of issue of which should not be earlier than six months from the date of issue of this appointment order".

6. Still a regular enquiry was conducted. It is incorrect to state that Excavation vehicle does not have any registered number as per Motor Vehicle Act. In fact the Petitioner was given training to operate '35 tonne Dumper'. The Dumper Operator should possess valid license for driving heavy duty vehicles. As he was having a fake driving license he was dismissed. The Licensing Authority R.T.O., Aurangabad informed that driving license produced by the Petitioner was not issued from their office. He has not submitted any documentary evidence which establishes that he has renewed his license after 10-6-1996. In fact he is liable for prosecution. That valid driving license is a prerequisite for being appointed as EP operator. Hence, the Respondent Management justified in insisting of heavy goods vehicle driving license. That was so held by Industrial Tribunal-I, by its award dated 19-11-98 in ID 45/97 (as Central Government establishments cases were decided by Industrial Tribunal-I before information of this Court. Hence, the petition may be dismissed.

7. Arguments were advanced on the same lines on validity of domestic enquiry by both the Counsels and this Court by an order dated 31st December, 2002 held that the domestic enquiry is validly conducted and in that order I have held that the Petitioner refused to have a defence representative, that Sri V. Brahmanandam, Manager, TTC, Manuguru was examined as MW1. The Petitioner did not cross examine him and the chargesheeted workman examined himself wherein he stated that perhaps he was cheated by the broker. The Learned Counsel for the Petitioner argued that he was cheated by a broker and after all what is the loss to the company? In fact in such cases where the Petitioner is found fit for driving and undergone training, he is having fake license will not make any difference, he could have been directed to undergo a test and get a new driving license and he deserves that much sympathy and anyway the order of dismissal is disproportionate to the alleged misconduct. Hence, he may be directed to be reinstated.

8. The Learned Counsel for the Respondent argues that this Court by an order dated 31st December, 2002 held

that the domestic enquiry is validly conducted. In fact he did not cross examine himself and did not choose to cross examine MW1, the only witness the Respondent examined in the enquiry. Further he himself gave a statement that he might have been cheated through broker and another thing is that why did he get a license from Aurangabad when he belongs to Khammam District? Hence, he does not deserve any sympathy.

9. It is also surprising as to why did he obtain the driving license from Aurangabad. No doubt, he has undergone training but if that is condoned, then everyone will come and say the same, where a graduate is required he may submit a fake certificate and say that anyway the work is going on, there for why should one insist for a genuine degree? So, the consequences may be fatal and there was not much time lag also between his appointment and the enquiry and dismissal. Therefore, I hold that the order of dismissal is valid and the Petitioner is not entitled for any relief.

Accordingly the Award is passed. Transmit.

Dictated to Kum. K Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 26th day of July, 2003

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner : Witnesses Examined for the Respondent :

Nil

Nil

Documents marked for the Petitioner :

Nil

Documents marked for the Respondent :

Nil

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2779.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. 109/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-9-2003 को प्राप्त हुआ था।

[स. एल-22013/1/2003-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. 109/2002) of the Central Government Industrial Tribunal cum Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 4-9-2003.

[No. L-22013/1/2003-IR(C-II)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc., LL. B Presiding Officer

Dated the 30th June, 2003

INDUSTRIAL DISPUTE NO. L.C.I.D 109/2002

Between :

Sri M. Anand Rao,
S/c M. Isreal,
C/o. 16-9-749/41, Race Course Road,
Old Malakpet,
Hyderabad

...Petitioner

AND

1. The Senior Regional Manager,
Food Corporation of India,
HACCA Bhavan,
Hyderabad.
2. The District Manager,
Food Corporation of India,
Miryalaguda, Nalgonda District. Respondents

APPEARANCES :

For the Petitioner : M/s G. Ravi Mohan,
R. Devender Reddy,
G. Srinivas Reddy, &
G. Naresh Kumar,
Advocates.

For the Respondent : M/s B.G. Ravindra Reddy,
S. Prabhakar Reddy,
P. Srinivasulu &
B. V. Chandrasekhar, Advocates.

AWARD

This is a case taken under Sec. 2 A(2) of I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 109/2002 and notices were issued to the parties.

2. In spite of several adjournments given from 4-12-2002 for enquiry of the Petitioner for 14 adjournment including 30-6-2003 the petitioner has not turned-out. The petitioner has failed to produce any evidence in support of his claim. Petitioner's Counsel reports no instructions. There is nothing on record to support the case of the Petitioner. Hence, a 'Nil' Award is passed, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 30th day of June, 2003

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the petitioner : Witnesses Examined for the Respondent :

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2780.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. 103/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2780.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. 103/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 4-9-2003.

[No. L-22013/1/2003-IR(C-II)]

S. S GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc., LL.B
Presiding Officer

Dated, the 30th June, 2003

INDUSTRIAL DISPUTE NO. L.C.I.D 103/2002

Between :

Sri M. Krishna,
S/o M. Prasad Rao
C/o. Prasad near MRM 17th ward,
Miryalaguda, Nalgonda District

...Petitioner

AND

1. The Senior Regional Manager,
Food Corporation of India,
HACCA Bhavan,
Hyderabad.
2. The District Manager,
Food Corporation of India,
Miryalaguda, Nalgonda District. Respondents

APPEARANCES :

For the Petitioner : M/s G. Ravi Mohan,
R. Devender Reddy,
G. Srinivas Reddy, &
G. Naresh Kumar,
Advocates.

For the Respondent : M/s B.G. Ravindra Reddy,
S. Prabhakar Reddy,
P. Srinivasulu &
B.V. Chandrasekhar, Advoca-
tates.

AWARD

This is a case taken under Sec. 2 A(2) of I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 103/2002 and notices were issued to the parties.

2. In spite of several adjournments given from 4-12-2002 for enquiry of the Petitioner for 14 adjournment including 30-6-2003 the petitioner has not turned-out. The petitioner has failed to produce any evidence in support of his claim. Petitioner's Counsel reports no instructions. There is nothing on record to support the case of the Petitioner. Hence, a 'Nil' Award is passed, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 30th day of June, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the petitioner : Witnesses Examined for the Respondent :

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल. सी. आई. डी. 79/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2781.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. 79/2002) of the Central Government Industrial Tribunal cum Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 4-9-2003.

[No. L-22013/1/2003-IR(C-II)]

S. S GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

PRESENT : SHRI E. ISMAIL, B.Sc., LL.B

Presiding Officer

Date the 30th June, 2003

INDUSTRIAL DISPUTE NO. L.C.I.D 79/2002

Between :

Sri K. Satyanarayana,
S/o Venkata Krishnaiah,
R/o. Bapuji Nagar, Miryalguda
C/o 16-9-749/41, Race Course Road,
Old Malakpet, Hyderabad.

...Petitioner

AND

1. The Senior Regional Manager,
Food Corporation of India,
HACCA Bhavan,
Hyderabad.
2. The District Manager,
Food Corporation of India,
Miryalaguda, Nalgonda District.

....Respondents

Appearances :

For the Petitioner : M/s G. Ravi Mohan,
R. Devender Reddy,
G. Srinivas Reddy, &
G. Naresh Kumar,
Advocates

For the Respondent : M/s B.G. Ravindra Reddy,
B.V. Chandra Sekhar,
Advocates

AWARD

This is a case taken under Sec. 2 A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 79/2002 and notices were issued to the parties.

2. In spite of several adjournments given from 30-8-2002 for enquiry of the Petitioner for 17 adjournments including 30-6-2003 the petitioner has not turned-out. Petitioner's Counsel reports no instructions. There is nothing on record to support the case of the Petitioner. Hence, a 'Nil Award' is passed, Transmit.

Dictated to Kum. K Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 30th day of June, 2003

E. ISMAIL, Presiding Officer.

Appendix of evidence

Witnesses examined for the petitioner	Witnesses Examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 5 सितम्बर, 2003

का. आ. 2782.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर (संदर्भ संख्या 76/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-09-2003 को प्राप्त हुआ था।

[सं. एल-22012/229/2001-आई आर (सी-II)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 5th September, 2003

S.O. 2782.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2002) of the Central Government Industrial Tribunal cum Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MCL and their workman, which was received by the Central Government on 4-9-2003.

[NO. L-22012/229/2001-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT BHUBANESWAR**

Present :

Shri S.K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Industrial dispute case No. 76/2002

Date of conclusion of hearing—21st August, 2003

Date of passing Award—25th August, 2003

Between :

The Management of the Chief

General Manager,

Talcher Colliery of MCL,

At/Po. Dera, Talcher,

Angul Orissa.

...1st Party-Management

AND

Their workman Shri Gandhi Lenka,

Represented through the General Secretary,

Talcher Coal Mines Employees Union,

At : AITUC Office, Subhash Ghosh Complex,

Lingraj Road,

P.O. Talcher,

Angul

2nd Party-Union

Appearances :

None

...For the 1st Party Management

None

...For the 2nd Party-Union

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-22012/229/2001/IR (CM-II), dated 06-09-2002:

"Whether the action of the Management of Talcher Colliery of MCL in terminating the services of Shri Gandhi Lenka, Loader, instead of providing light job is legal and justified? If not, what relief the workman is entitled to?"

2. On receipt of the copy of the reference from the Government of India this Tribunal issued notice to the 2nd party i.e. the General Secretary, Talcher Coal Mines Employees Union to appear and to file the Claim Statement in support of their case. In pursuant of the said notice the representative of the 2nd Party appeared on 2-12-2002 and took time to file the Claim Statement. Thereafter no step has been taken by the 2nd Party who had raised the dispute and no Claim Statement has been filed.

3. When the Claim Statement has not been filed by the 2nd party who had raised the dispute and no copy has been served on the 1st Party-Management, the question of filing of written Statement does not arise.

4. When the 2nd Party has failed to file the Claim Statement and not given any evidence either oral or documentary, this Tribunal can not say that the action of the 1st Party-Management of Talcher Colliery of MCL in terminating the services of Shri Gandhi Lenka, loader instead of providing light job is illegal and unjustified. In that case, the workman is not entitled for any relief.

Reference is answered accordingly.

Dictated & Corrected by me.

S.K. DHAL, Presiding Officer.

नई दिल्ली, 15 सितम्बर, 2003

का. आ. 2783—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 अक्टूबर, 2003 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले ही प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध उड़ीसा राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जाजपुर रोड़, जाजपुर, सुकिन्दा तहसील के अन्तर्गत

पदमापुर, भाटिया तथा डाला क्षेत्र के राजस्व गांव।"

[सं. एस-38013/33/03-एस.एस.-1]

के.सी. जैन, निदेशक

New Delhi, the 15th September, 2003

S.O. 2783.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st October, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V AND VI (except Sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Orissa namely :—

"Areas comprising the revenue villages of Padmapur, Bhatia and Dala Under Sukinda Talasao, Jajpur Road, Jajpur."

[No. S-38013/33/2003-SS.I]

K.C. JAIN, Director

नई दिल्ली, 15 सितम्बर, 2003

का. आ. 2784.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि—
यूनियन उद्योग—
में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 19 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/09/97-आई. आर. (पी.एल.)]

जे.पी. पति, सचिव

New Delhi, the 15th September, 2003

S.O. 2784.—Whereas the Central Government is satisfied that the public interest required that the services in the **Uraniuim Industry** which is covered by item 19 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/09/97-IR (PL)]
J.P. PATI, Jt. Secy

नई दिल्ली, 15 सितम्बर, 2003

का. आ. 2785.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 अक्टूबर, 2003 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले ही प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जिला तथा तालुक पालक्काड में पेरुवाम्बा के अधीन आने वाले क्षेत्र”।

[सं. : एस-38013/34/03-एस.एस.-1]
के.सी. जैन, निदेशक

New Delhi, the 15th September, 2003

S.O. 2785.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st October, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V AND VI (except Sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Kerala namely :—

“Peruvamba in Palakkad Taluk & District”.

[No. S-38013/34/2003-SS.I]
K.C. JAIN, Director

नई दिल्ली, 15 सितम्बर, 2003

का. आ. 2786—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 अक्टूबर, 2003 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले ही प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध उत्तरांचल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“परगना, तहसील एवं जिला देहरादून में नगरपालिका क्षेत्र मसूरी के अन्तर्गत आने वाले राजस्व ग्राम-झडोपानी, बालोगंज, राजमण्डी, झालको, लन्दोर नार्थ एण्ड साउथ कुलडी, कचहरी, लाइब्रेरी, मालरोड, पिक्चर पैलेस, चर्चिल पोलोग्राउण्ड एवं भदराज”।

[सं. एस-38013/32/2003-एस.एस.-1]
के.सी. जैन, निदेशक

New Delhi, the 15th September, 2003

S.O. 2788.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st October, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V AND VI [except Sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Uttaranchal namely :—

“Areas comprising the revenue villages Jhadopani, Baloganj, Raj, Amdo, Jhalco, Londore North & South Kuldi, Kachehari, Library, Malroad, Picture Palace, Charchil Pologround and Bhadraraj in Municipal area of Musoorie in the Pargana, Tehsil and District Dehradun”.

[No. S-38013/32/2003-SS.I]
K.C. JAIN, Director

नई दिल्ली, 18 सितम्बर, 2003

का. आ. 2787—केन्द्रीय सरकार एतद्वारा, उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, विज्ञान एवं प्रौद्योगिकी मंत्रालय में केन्द्रीय सचिवालय सेवा संवर्ग के श्री सुप्रियो साहा, अनुभाग अधिकारी को 5 सितंबर, 2003 (पूर्वाह्न) से उत्प्रवास संरक्षी, कोलकाता के रूप में नियुक्त करती है।

[सं. एस-13011/1/2003-उत्प्रवास]

ए. अशोली चलाई, अवर सचिव

New Delhi, the 18th September, 2003

S.O. 2787.—In exercise of the powers conferred by Section 3, Sub-Section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri Supriyo Saha, Section Officer of CSS cadre of Ministry of Science & Technology, as Protector of Emigrants, Kolkata with effect from 5th September, 2003 (F.N.)

[No. S-13011/1/2003-Emig.]
A. ASHOLI CHALAI, Under Secy.